

6/84

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

TAN LAI WAH

Appellant
(Fourth Defendant)

- and -

THE FIRST NATIONAL BANK
OF CHICAGO

Respondents
(Plaintiffs)

RECORD OF PROCEEDINGS

CAMERON & MARKBY,
Moor House,
London Wall,
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Solicitors for the
Appellant

COWARD CHANCE,
Royex House,
Aldermanbury Square,
London, EC2

Solicitors for the
Respondents

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

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TAN LAI WAH

Appellant
(Fourth Defendant)

- and -

THE FIRST NATIONAL BANK
OF CHICAGO

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(Plaintiffs)

RECORD OF PROCEEDINGS

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 3. Affidavit of Kwan Mee Sin filed on 11th November 1977 with exhibits marked 'KNS 1' to 'KMS 5'
 4. Affidavit of Tan Lai Wah filed on 14th November 1977
 5. Plaintiffs' written submission
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 7. Reply to the Plaintiffs' submission
 8. List of Exhibits
- | <u>Exhibit Mark</u> | <u>Exhibits</u> |
|---------------------|------------------------------|
| 9. AB10 | Letter dated 1st August 1977 |

Exhibit
Mark

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12. AB13 Letter dated 4th October 1977
13. AB14 Letter dated 12th October 1977
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15. AB16 Letter dated 27th October 1977
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Supreme Court

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

TAN LAI WAH Appellant
(Fourth Defendant)

- and -

THE FIRST NATIONAL BANK Respondents
(Plaintiffs)
OF CHICAGO

10

R E C O R D O F P R O C E E D I N G S

No.1

WRIT OF SUMMONS
(excluding Statement
of Claim)

In the High Court

No.1
Writ of Summons
(excluding
Statement of
Claim)

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No.1464 of 1977

23rd May 1977

BETWEEN

The First National Bank of Chicago
Plaintiffs

20

And

1. How Lee Realty Pte. Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi
Yook (m.w.)
4. Tan Lai Wah (f)

Defendants

THE HONOURABLE MR. JUSTICE WEE CHONG JIN, CHIEF
JUSTICE OF SINGAPORE, IN THE NAME AND ON BEHALF
OF THE PRESIDENT OF THE REPUBLIC OF SINGAPORE

30

To: 1. How Lee Realty Pte.Ltd.
having its registered office
at 3rd Floor, Maxwell House,
20 Maxwell Road, Singapore 2.

In the High Court

No.1
Writ of
Summons
(excluding
Statement of
Claim)

23rd May 1977
(continued)

- 2. Edward Kong Kee Yee
- 3. Catherine Kong nee Ho Hoi Yook (m.w.)
both of 319-J, City Towers,
Bukit Timah Road, Singapore 10.
- 4. Tan Lai Wah (f)
33 One Tree Hill,
Singapore 10.

WE COMMAND YOU that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in a cause at the suit of The First National Bank of Chicago, and take notice, that in default of your so doing the plaintiffs may proceed therein to judgment and execution. 10

WITNESS MR. LOW WEE PING, Asst. Registrar of the Supreme Court in Singapore the 23rd day of May, 1977.

Sd. Rodyk & Davidson Plaintiffs' Solicitors	Sd. Low Wee Ping Asst. Registrar Supreme Court, Singapore	20
--	---	----

N.B. - This writ may not be served more than twelve calendar months after the above date unless renewed by order of Court.

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by a solicitor at the Registry of the Supreme Court.

A defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a Postal Order for \$5.00 with an addressed envelope to the Registrar, Supreme Court, Singapore 6. 30

If the Defendant enters an appearance, then, unless a summons for judgment is served on him in the meantime, he must also serve a defence on the solicitor for the plaintiff within 14 days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against him without notice. 40

STATEMENT OF CLAIM

(See Amended Statement of Claim)

AND \$125/- (or such sum as may be allowed on taxation) for costs, and also, if the Plaintiffs obtain an order for substituted service, the further sum of \$60/- (or such sum as may be allowed on taxation). If the amount claimed and costs be paid to the Plaintiffs or their Solicitors within 8 days after service hereof (inclusive of the day of service), further proceedings will be stayed, but if it appears from the indorsement on the writ that the Plaintiffs are resident outside the scheduled territories, as defined by the Exchange Control Act (Chapter 245) or is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed and costs is paid into Court within the said time and notice of such payment in is given to the Plaintiffs or their Solicitors.

In the High Court

No.1
Writ of
Summons
(excluding
Statement of
Claim)

23rd May 1977

(continued)

10

20

Sd. Rodyk & Davidson

Solicitors for the Plaintiffs

The Writ is issued by Messrs. Rodyk & Davidson of No.24 Chartered Bank Chambers, Singapore, Solicitors for the said Plaintiffs whose address is at Wing On Life Building, 150 Cecil Street, Singapore 1.

(Filed this 23rd day of May 1977)

wsc/cn

In the High
Court

No. 2

No.2
Amended State-
ment of Claim

AMENDED STATEMENT
OF CLAIM

23rd January
1978

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 1464 of 1977

Between

The First National Bank of
Chicago

Plaintiffs

And

10

1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi
Yook (m.w.)
4. Tan Lai Wah (f)

Defendants

AMENDED STATEMENT OF CLAIM

1. The Plaintiffs are bankers carrying on business at Wing On Life Building, 150 Cecil Street, Singapore 1.

20

2. At all material times the 1st Defendant was a customer of the Plaintiffs.

3. By a letter dated 18th April 1973 addressed to the 2nd Defendant, a Director of the 1st Defendant Company, the Plaintiffs agreed to offer credit facilities to the 1st Defendant on the terms and conditions therein set out. The offer was accepted on or about the 25th day of May 1973 pursuant to which credit facilities were afforded to the 1st Defendant. The Plaintiffs will, at the trial of this action, produce a copy of the said letter dated 18th April 1973 for its full terms and effect.

30

3. 4. The Plaintiffs' claim is for money payable by the 1st Defendant to the Plaintiffs on the 1st Defendant's account with the Plaintiffs for money lent by the Plaintiffs to the 1st Defendant and for money paid by the Plaintiffs for the 1st Defendant, as bankers (or agents) for the 1st Defendant, at its request, and for interest upon money due from the 1st Defendant to the Plaintiffs, and forborne at interest by the Plaintiffs to the 1st Defendant at its request,

40

and for bank charges.

In the High Court

PARTICULARS

No.2
Amended
Statement of
Claim

Amount due

<u>Overdraft</u>	<u>Account No.</u>	
10-6000	553-000	<u>S\$3,323,324-62</u>

23rd January
1978

(continued)

10

4. 5. By an Unlimited Guarantee in writing dated the 24th day of April 1973 between the Plaintiffs and the 2nd Defendant, the 2nd Defendant agreed, for the consideration therein set out, to guarantee the payment, on demand, of all advances made by the Plaintiffs to the 1st Defendant including interest, commission and bank charges thereon. The Plaintiffs will produce a copy of the said Unlimited Guarantee dated the 24th day of April 1973 at the trial of this action for its full terms and effect.

20

5. 6. By an Unlimited Guarantee in writing dated the 24th day of April 1973 between the Plaintiffs and the 3rd Defendant, the 3rd Defendant agreed, for the consideration therein set out, to guarantee the payment, on demand, of all advances made by the Plaintiffs to the 1st Defendant, including interest, commission and bank charges thereon. The Plaintiffs will produce a copy of the said Unlimited Guarantee dated the 24th day of April 1973 at the trial of this action for its full terms and effect.

30

6. 7 By an Unlimited Guarantee in writing dated the 18th day of April 1974 between the Plaintiffs and the 4th Defendant, the 4th Defendant agreed, ~~for the consideration therein set out,~~ in consideration of the Plaintiffs agreeing to renew the advances or otherwise giving credit or affording banking facilities to the 1st Defendant for a further period of one (1) year expiring in May 1975, to guarantee the payment, on demand, of all advances made by the Plaintiffs to the 1st Defendant, including interest, commission and bank charges thereon. The Plaintiffs will produce a copy of the said Unlimited Guarantee dated the 18th day of April 1974 at the trial of this action for its full terms and effect.

40

8. The Plaintiffs say that the terms and conditions for renewal of advances or otherwise of the giving of credit facilities to the 1st Defendant, is set out in a letter dated 13th May 1974 addressed to the 2nd Defendant, which offer was accepted on or about the 21st day of May 1974.

In the High
Court

No.2
Amended
Statement of
Claim

23rd January
1978

(continued)

The Plaintiffs will, at the trial of this action, produce a copy of the said letter dated 13th May 1974, for its full terms and effect.

7. 9. In pursuance of the said Unlimited Guarantees executed by the 2nd, 3rd and 4th Defendants, the Plaintiffs have made advances to or otherwise gave credit to the 1st Defendant.

10. By letters dated 21st July 1976 addressed to the 2nd, 3rd and 4th Defendants, the Plaintiffs' Solicitors, Messrs. Rodyk & Davidson demanded payment of the outstanding sum then due and owing amounting to S\$3,137,352-94. The Plaintiffs will produce copies of the said letters at the trial of this action for their full terms and effect. The Plaintiffs say that no payment was received either from the 2nd, 3rd or 4th Defendants.

8. 11. By a letter dated the 4th day of February 1977 addressed to the 1st Defendant, the Plaintiffs' Solicitors, Messrs. Rodyk & Davidson, demanded payment of the outstanding amount then due and owing to the Plaintiffs. Copies of the said letter were also extended to the 2nd, 3rd and 4th Defendants. The Plaintiffs will produce a copy of the said letter of 4th February 1977 at the trial of this action.

12. The Plaintiffs say that the total amount due and owing by the 1st Defendant as at 5th October 1977 was S\$2,520,198-91, short particulars of which are as follows:-

P A R T I C U L A R S

Amount due

(1) Amount owing by 1st Defendant
as at 19.7.77 S\$3,497,381-17

Less: Balance of Proceeds
of Sale of No.10
Tomlinson Road,
Singapore 1,024,955-32

19.7.77: Balance due: S\$ 2,472,425-85

(2) Judgment debt owing by 1st
Defendant as at 29.7.77 2,478,491-71

Add: (i) Legal fees incurred
by Plaintiffs
arising out of sale
of No.10 Tomlinson
Road 4,216-10

S\$ 2,482,707-81

	Brought forward	S\$2,482,707-81
	(ii) Further interest accrued on S\$2,482,707-81 at 8% per annum up to 22.8.77	<u>13,572-40</u>
	Total amount due as of 22.8.77	S\$2,496,280-21
10	<u>Add:</u> Further interest accrued on S\$2,496,280-21 at 8% per annum up to 4.10.77	<u>23,568-70</u>
	Total amount due as at 5.10.77	S\$2,519,848-91
	<u>Add:</u> Cost awarded on Judgment against 1st Defendant on 29.7.77	<u>350-00</u>
	Grand Total	<u><u>S\$2,520,198-91</u></u>

In the High Court
No.2
Amended
Statement of
Claim
23rd January
1978
(continued)

20 9. 13. The Plaintiffs say that neither the said 1st Defendant nor the 2nd, 3rd and 4th Defendants have paid the said sum of ~~S\$3,323,324-62~~ S\$2,520,198-91 or any part thereof.

And the Plaintiffs claim against the 1st, 2nd, 3rd and 4th Defendants and each of them as follows :-

- 30 (1) The sum of ~~S\$3,323,324-62~~ S\$2,520,198-91
- (2) Further interest thereon at ~~10%~~ 8% per annum from ~~1st February 1977~~ 6th day of October 1977 until full payment.
- (3) Costs.

Re-delivered and Amended the 23rd day of January 1978 as underlined in red pursuant to Order 20 Rule 3(1) of the Rules of the Supreme Court, 1970.

Sd. Rodyk & Davidson
Solicitors for the Plaintiffs

40 (Filed this 23rd day of January 1978)

/wsc/cn

In the High Court

No. 3

No. 3
Further and Better Particulars of the Statement of Claim
23rd January 1978

FURTHER AND BETTER PARTICULARS OF THE STATEMENT OF CLAIM

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 1464 of 1977

Between

The First National Bank of Chicago

Plaintiffs 10

And

1. How Lee Realty Pte Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi Yook (m.w.)
4. Tan Lai Wah (f)

PARTICULARS SERVED PURSUANT TO REQUEST OR ORDER

Further and Better Particulars of the Statement of Claim. 20

Served pursuant to request dated the 23rd day of November, 1977

PARTICULARS REQUESTED

ANSWER

Under Paragraph 6

1. Of the consideration alleged: State what is the consideration for the alleged Guarantee

The consideration for the Guarantee dated 18th April 1974 by the 4th Defendant in favour of the Plaintiffs is set out in Clause 1 of the said Guarantee in that the Plaintiffs agreed to continue advances or otherwise give credit or afford banking facilities to the 1st Defendant for a further period of one (1) year expiring in May 1975 in accordance with the terms set out in the Plaintiffs' letter dated

30

40

PARTICULARS REQUESTED

ANSWER

In the High Court

Under Paragraph 6

(cont'd)

13th May 1974 to the
2nd Defendant.

No. 3
Further and
Better
Particulars
of the
Statement of
Claim

23rd January
1978

Dated the 23rd day of January 1978

(continued)

Sd: Rodyk & Davidson

Solicitors for the Plaintiffs

To: Messrs. P. Suppiah & Co.
Solicitors for the 4th Defendant,
Singapore.

10

(Filed this 23rd day of January 1978)

WSC/CN

No. 4

FURTHER AMENDED DEFENCE
OF THE FOURTH DEFENDANT

No. 4
Further Amended
Defence of
the Fourth
Defendant

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

1st November
1979

Suit No. 1464 of 1977

Between

The First National Bank
of Chicago

Plaintiffs

And

1. How Lee Realty Pte. Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho
Hoi Yook (m.w.)
4. Tan Lai Wah (f)

Defendants

FURTHER AMENDED DEFENCE OF THE
4th DEFENDANT

1. The 4th Defendant admits paragraph 1 of

20

In the High Court

No.4
Further Amended
Defence of the
Fourth
Defendant

1st November
1979

(continued)

the Amended Statement of Claim.

2. The 4th Defendant has no knowledge ~~as to~~
~~of~~ what has been stated in paragraph 2 of the
Amended Statement of Claim and makes no
admissions thereof.

3. The 4th Defendant has no knowledge as to
~~of what has been stated in paragraph 3 of the~~
Amended Statement of Claim and makes no
admissions thereof.

3. 4. The 4th Defendant has no knowledge that 10
any money was payable by the 1st Defendant to
the Plaintiffs on the 1st Defendant's account
with the Plaintiffs as stated in paragraph 3 4
of the Amended Statement of Claim and therefore
puts the Plaintiffs to strict proof that in
fact money was payable by the 1st Defendant to
the Plaintiffs.

4. 5. The 4th Defendant has no knowledge that 20
any money was lent by the Plaintiffs to the 1st
Defendant nor any money was paid by the Plain-
tiffs to the 1st Defendant either as bankers
or agents for the 1st Defendant at its request
as alleged in paragraph 3 4 of the Amended
Statement of Claim and therefore the 4th
Defendant puts the Plaintiffs to strict proof
thereof.

5. 6. The interest and bank charges alleged in
paragraph 2 4 of the Amended Statement of Claim
are denied.

6. 7. The amount due under Particulars of 30
paragraph 2 4 of the Amended Statement of
Claim or any part thereof is also denied.

7. 8. The 4th Defendant has no knowledge ~~as to~~
~~of~~ what has been stated in paragraphs 4 5 and
5 6 of the Amended Statement of Claim and says
they are irrelevant to the issue as so far as
the 4th Defendant is concerned except that it
would be seen therefrom that both the ~~guarantees~~
Guarantees referred to therein are dated 24th
April 1973. 40

8. 9. With regard to paragraph 6 7 of the
Amended Statement of Claim the 4th Defendant
admits signing the ~~guarantee~~ Guarantee dated
18th April 1974 (which was signed about one
year later than the said two ~~guarantees~~
Guarantees) referred to therein and says
~~that there was no consideration to support it~~
~~or the proper consideration has not been set~~

~~out therein and if there was consideration which is denied the 4th Defendant will contend that the consideration for it was a part consideration but denies that in that Guarantee she gave any such guarantee as is alleged therein.~~ At the time the 4th Defendant signed the said Guarantee it was represented to her and she honestly believed that the said Guarantee was a guarantee of her interest in a property which she jointly owned with the Second Defendant.

10

In the premises, the said ~~guarantee Guarantee executed by her~~ ~~was not is not binding on the 4th Defendant her~~ is not the 4th Defendant's guarantee.

10. The 4th Defendant denies that the Plaintiffs gave any consideration in law as alleged or at all for her signing the said Guarantee.

20

11. The 4th Defendant denies that by the terms of the said Guarantee she undertook to pay the Plaintiffs monies lent to or paid for the 1st Defendant prior to and before she signed the said Guarantee.

12. The 4th Defendant says in the alternative that her liability under the said Guarantee which is denied has been discharged by the Plaintiffs acting unreasonably in a manner detrimental to the 4th Defendant thereby prejudicing her.

P A R T I C U L A R S

(i) In or about July or August 1975 the Plaintiffs their agent or servant prevented a sale at a price of \$4.5 million of the property which was mortgaged to the Plaintiffs to secure the amount due to the Plaintiffs on the 1st Defendant's account. The price was well in excess of the amount due to the Plaintiffs on the said account.

30

(ii) In or about March 1976 the Plaintiffs unreasonably refused to give their consent to a sale of the said property at a price of \$2.5 million which price was later increased to \$3 million insisting upon a price of \$4 million before they would consent. At the material time, the amount due to the Plaintiffs on the account of the 1st

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In the High Court

No.4
Further Amended Defence of the Fourth Defendant
1st November 1979

(continued)

Defendant was only \$3,028,553-35.

- (iii) In December 1976 the Plaintiff unreasonably refused an offer to purchase the said property for \$1,256,213-00 made at an auction sale at which the property had been put up for sale by the Plaintiffs under their power of sale.
- (iv) In July 1977 the Plaintiffs sold the said property for only \$1,024,955-32. 10

In all these the Plaintiffs acted without the consent and/or knowledge of the 4th Defendant. The 4th Defendant was not kept informed by the Plaintiffs.

~~10:~~ 13. The 4th Defendant has no knowledge as to what has been stated in paragraph 8 of the Statement of Claim.

~~9. 11:~~ 14. With regard to paragraph ~~7~~ 9 of the Amended Statement of Claim the 4th Defendant denies that in pursuance of the said ~~guarantee~~ **Guarantee executed by her** the Plaintiffs had made advances to or **otherwise gave credit to** the 1st Defendant. 20

~~12:~~ 15. The 4th Defendant admits receiving the letters referred to in paragraph 10 and 11 of the Statement of Claim but she denies that she is liable to pay the sum referred to therein and in paragraph 13 or any part thereof under the said **Guarantee executed by her or at all.**

~~15:~~ 16. The 4th Defendant has no knowledge ~~as to~~ what has been stated in paragraph 12 of the Statement of Claim. 30

~~10:~~ ~~14:~~ 17. Save as ~~is~~ hereinbefore expressly admitted the 4th Defendant denies each and every allegation contained in the Statement of Claim as if the same were herein set out seriatim and specifically traversed.

Dated and Delivered this 21st day of January 1978.

Re-dated and Re-delivered and Amended the 31st day of January 1978 as underlined in red pursuant to Order 20 Rule 3(2)(a) 40

Re-dated and Re-delivered Further Amended as underlined in green pursuant to Order of Court dated 24th day of October 1979.

In the High Court

No.4
Further Amended
Defence of
the Fourth
Defendant

Dated this 1st day of November 1979

Sd. J.B.Jeyaretnam & Co.
Solicitors for the abovenamed
4th Defendant

1st November
1979
(continued)

10 To Messrs. Rodyk & Davidson,
Solicitors for the Plaintiffs

(Re-filed this 1st day of November 1979)

wsc/cn

No.5

FURTHER AND BETTER
PARTICULARS OF THE DEFENCE

No.5
Further and
Better Particu-
lars of the
Defence

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

8th December
1979

Suit No. 1464 of 1977

Between

The First National Bank of
Chicago

Plaintiffs

And

1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi
Yook
4. Tan Lai Wah (f)

Defendants

PARTICULARS SERVED PURSUANT TO
REQUEST OR ORDER

30

Further and Better Particulars of the
Defence.

Served pursuant to request dated the 12th
day of November 1979.

In the High Court

No. 5
Further and
Better Particulars of the
Defence
8th December
1979
(continued)

PARTICULARS REQUESTED

ANSWER

Under Paragraph 9

1. Of the allegation that
'At the time the 4th
Defendant signed the said
Guarantee it was repre-
sented to her and she
honestly believed that
the said Guarantee was a
Guarantee of her interest
in a property which she
jointly owned with the
2nd Defendant, please
state :-
- (a) what was the alleged
representation made to
the 4th Defendant;
- (a) The 4th Defen-
dant was told that
the document was a
guarantee of her
interest in the
Tomlinson Road
property. 20
- (b) The name(s) of the
person(s) who allegedly
made the representation
to the 4th Defendant,
the date and place where
the alleged representa-
tion was made.
- (b) The representa-
tion was made at
the office of the
4th Defendant in
122-A Cecil Street,
immediately prior
to the execution
of the document
by Mr. Edward Kong
Kee Yee. 30
- (c) The nature or parti-
culars of the property
in which the 4th
Defendant is alleged
to have a interest in
jointly with the 2nd
Defendant.
- (c) 10 Tomlinson
Road, Singapore.

Dated the 8th day of December 1979

Sgd: J.B.Jeyaretnam & Co.
Solicitors for the 4th Defendant

40

(Filed this 8th day of December 1979)

wsc/cn

No.6

In the High
Court

NOTES OF EVIDENCE -
PLAINTIFF'S EVIDENCE

No.6
Notes of
Evidence
Plaintiff's
Evidence

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

SUIT NO. 1464 OF 1977

Between

The First National Bank of
Chicago

Plaintiffs

10

And

How Lee Realty Pte. Ltd.
and 3 others

Defendants

F. Mallal for Plaintiffs

J.B. Jeyaretnam for the Defendants

Wednesday, 24th October 1979

Coram: D'Cotta J

NOTES OF EVIDENCE

20

Jeyaretnam: tenders apologies
took over defence on 11.10.79;
defence should be amended; tenders
amended defence;
applies for leave to amend defence.

Mallal: Objects at this late stage;
First hearing on 3.10.79 no
indication of amendment; Omar
Salleh for defence just briefed,
again brought up on 9.10.79 no
indication of amendment.

30

Order: Leave to amend granted; Plaintiff
given leave to file a reply to
amended defence. Costs of amend-
ment to Plaintiff in any event.
Defence given leave to file
amended defence which will be, in
substance, the defence tendered
subject to grammatical errors.

Agreed bundle marked AB1 - 28

In the High Court

P.W.1 Lim Sin a/s English

Plaintiff's Evidence

Advocate and Solicitor
110 Surin Avenue, Singapore.
AB2 and 3 is the guarantee executed by the Defendant.

No.6
Notes of Evidence
P.W.1. Lim Sin
Examination

Some time in 1974 Mr. Kong Kee Yee came to my office. He is known to me. He showed me a copy of AB2 and said it had been signed by Madam Tan Lai Wah who is my mother-in-law and requested me to sign as her witness. I therefore telephone Madam Tan to ask her to confirm that she had signed the guarantee and further asked her whether she understood everything inside the guarantee. She said that Kong Kee Yee had already explained to her and that he had already signed a similar guarantee and all she wanted me to do was to witness her signature. I told her that as a lawyer I would persuade her to come to my office so that I could explain to her the contents or I could even call on her at her office to explain to her and a bank guarantee is a very serious document. Her reply was she was totally clear and do not require further explanation. Her only requirement was for me to witness her signature. I then signed the guarantee as her witness. Mr. Edward Kong is personally known to me. Edward Kong identified. Madam Tan told me over the telephone that Edward Kong had also signed. My firm was acting for the 1st defendant but my partner attended to their matters. My firm acted for the 1st defendant in connection with a piece of land at Tomlinson Road.

10

20

30

Witness is shown a document

I recognise my partner's signature on the guarantee.

40

Mallal tenders - admitted & marked P1

I handed the guarantee which I witnessed to Mr. Edward Kong. Mr. Kong was before me when I spoke to Madam Tan on the telephone.

By me: D.C. D'Cotta

Cross-examination

XXN by Jeyaretnam:

Q. On whose behalf were you acting when you witnessed the guarantee.

	A.	I was not acting as solicitor for anyone, defendant only wanted me to witness her signature.	In the High Court
	Q.	Were you by any chance acting for the Plaintiffs when you witnessed Madam Tan's signature.	Plaintiff's Evidence
	A.	No.	No.6
	Q.	Your firm has been the bank's solicitors for a number of year before 1974.	Notes of Evidence
10	A.	Probably correct because my firm was the Plaintiffs solicitors; my partner acted for the bank except when he was not available.	P.W.1 Lim Sin Cross-Examination
	Q.	Madam Tan is your mother-in-law.	(continued)
	A.	Yes.	
	Q.	When did you marry her daughter.	
	A.	I can't recollect.	
	Q.	How long have you known Madam Tan.	
	A.	For some time before I married her daughter	
20	Q.	After marriage you have known her closely.	
	A.	No.	
	Q.	Do you know what her educational attainments are.	
	A.	I don't she has much formal education.	
	Q.	Do you know she has only 3 years of Chinese education.	
	A.	I don't know, she has told me she has little education.	
	Q.	Do you know if she has any English education.	
30	A.	Not as a matter of knowledge.	
	Q.	What does she speak to you in.	
	A.	Hokkien.	
	Q.	Have you seen her reading English or correspondence in English.	
	A.	No.	
	Q.-	Mallal tenders original guarantee made by 4th Defendant - admitted & marked <u>P2</u> Was P2 filled in.	
	A.	It was.	
40	Q.	Was date 18.4.74 typed in.	
	A.	No.	

In the High
Court

Plaintiff's
Evidence
No.6
Notes of
Evidence
P.W.1 Lim Sin
Cross-
Examination
(continued)

- Q. Was name of guarantor typed in.
A. Yes.
Q. Who inserted the date.
A. No idea.
Q. You cannot say it was the 18.4.74.
A. No.
Q. How long have you known Edward Kong.
A. Since 1972 or 73.
Q. Are you well acquainted with him.
A. No I have seen him at Madam Tan's house. 10
Q. Do you converse in English with him.
A. Yes.
Q. What did Mr. Kong say when he brought P2
to you.
A. In substance he said, 'This is a bank
guarantee, your mother-in-law has signed
it please witness her signature.
Q. Is that all.
A. Yes.
Q. What did you do. 20
A. I said I must check with my mother-in-law.
Q. Did he tell you that your mother-in-law
requested him to ask you to witness her
signature.
A. I can't recall.
Q. Did Mr. Kong tell you if anyone made a
request.
A. No.
Q. Was Mr. Kong making a request for himself.
A. That was not in my mind. 30
Q. Who did you think was making the request.
A. I never gave it a thought; the only thing
that struck me was it was a bank guarantee
and she should know something about it.
I remember when I wanted to pick up the
telephone Edward Kong said what is all this
fuss about, you knew your mother-in-law's
signature you can witness it.
Q. You spoke to Madam Tan in Hokkien.
A. Yes. 40
Q. What did you tell Madam Tan.

10 A. I told her in Hokkien (translates)
"Edward Kong has handed me a bank
guarantee executed by you and has asked
me to sign as witness. This document is
a very important document and it is
preferable if you call at my office for me
to explain to you. She said Edward Kong
has already explained the contents to me
and he has also signed a bank guarantee,
so all that is necessary is for you to
witness my signature." I then told her
"If it is because you are busy I can even
call at your office to explain it to you."
She said Edward Kong had explained it to
her and she knew what it was about, all
she wanted me to do was to witness her
signature.

Q. So you then signed.

A. Yes.

20 Q. Nothing further was discussed.

A. I don't recall.

Q. You told her a bank guarantee was a very
serious document.

A. Yes.

Q. Edward Kong was with you.

A. In front of me.

Q. He understood all you said to Madam Tan.

A. I believe so.

30 Q. Did it occur to you it would have been
better for her signature to have been
witnessed by someone who is not the bank's
solicitors.

A. I don't think so; if it occurs again I
will do it again.

Q. My instructions are this telephone conver-
sation was sweet and short.

A. Whatever it is, it is what I told you.

40 Q. My instructions are you said to her in
Hokkien 'Did Edward Kong bring you a
guarantee to sign and were you happy to
sign'

A. That is not so.

Q. She said in reply 'That is so I have
already signed'.

A. Partly so because she told me she had
already signed it.

In the High
Court

Plaintiff's
Evidence
No.6
Notes of
Evidence
P.W.1 Lim Sin
Cross-
Examination
(continued)

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.1 Lim Sin
Cross-Examination
(continued)

- Q. My instructions are that was all that passed in that telephone conversation between you and her.
- A. That is not true.
- Q. My instructions are at no time did you tell that you would explain to her.
- A. That is not true.
- Q. Who signed AB6.
- A. Probably Mathew Lim.
- Q. Did you request the bank for a photocopy of Madam Tan's signature. 10
- A. No.
- Q. Who made the request.
- A. I don't know.
- Q. Did Madam Tan make a request to you.
- A. I do not recall.
- Q. AB7 is your letter.
- A. Yes.
- Q. AB7 says the request is hers.
- A. I didn't know at the time I received AB6 but I knew on the 10.8.74. 20
- Q. Who had made a request.
- A. Madam Tan told me she requested it.
- Q. When was this.
- A. On the 9th or 10th August.
- Q. There was no telephone conversation on the 9th or 10 August.
- A. That cannot be so.
- Q. Have you and Madam Tan been at gambling parties together. 30
- A. Yes.
- Q. Did she know Matthew Lim.
- A. Yes, I have seen them together.
- Q. You represented 1st Defendant.
- A. My partner did.
- Q. Your firm incorporated the company.
- A. I am not sure.
- Q. 1st Defendant mortgaged Tomlinson Road to Plaintiffs.
- A. Yes. 40

	Q.	No.10?	In the High Court
	A.	I believe so.	<u>Plaintiff's Evidence</u>
	Q.	Do you know moneys provided by Plaintiff bank.	No.6
	A.	No.	Notes of Evidence
	Q.	Did Madam Tan have an interest in How Lee Realty.	P.W.1 Lim Sin
	A.	I have a vague feeling she has.	Cross-Examination
	Q.	She has 50% of the assets.	(continued)
10	A.	I don't know.	
	Q.	At the time you signed P2 did you ascertain the amount 1st Defendant owed Plaintiffs.	
	A.	No.	
	Q.	Did you enquire of Madam Tan whether she was aware of the state of the accounts.	
	A.	There was no discussion about that.	
		by me: D.C. D'Cotta	
20	RXN:	Mallal tenders Extract of Registry of Companies - admitted and marked P3. Letter of Authority from Bank - marked P4.	Re-examination
	P.W.2	Yew-Kwan Mei Sin a/s English Asst. Manager, Plaintiff Bank. 18 Sian Tuan Avenue, Singapore 21.	P.W.2 Yew-Kwan Mei Sin Examination
30		I have knowledge of accounts of 1st Defendant from end of 1977 i.e. 1978 I took over. Mathew Lim resigned from the bank in 1976. He was the assistant manager and the accounts officer in charge of 1st Defendant's accounts from 1973-1976. I have looked through the records of the bank with regard to 1st defendant's accounts. I am acquainted with all methods concerning operation of this account. ABl is a normal letter - a commitment letter we normally sent to our customers upon finalisation of loan facilities.	
40		1st Guarantee - P1 2nd Guarantee - P1A Two separate guarantees. Messrs. Lim Sin & Co. prepared the mortgage. From records available at the end of one year period, officer in charge reviewed the	

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Examination
(continued)

situation and agreed with 1st defendant that the bank would only consider renewing facilities for additional year provided an addition guarantor was obtained i.e. a guarantee from 4th defendant. AB2 and 3 is the guarantee. This guarantee was obtained prior to AB5 according to the date in the document. AB2 is an unlimited guarantee. Accounts are still in the bank's books for the reason that it has not been full settled. AB8 sent in accordance with requirements of AB2. In late 1974 1st defendant not able to pay interest on the loan. Bank got concern and efforts were made to recall the loan. We instructed our solicitors to send AB8. No reply to AB8. The bank then made efforts to liquidate 10 Tomlinson Road to obtain buyers. No.10 Tomlinson Road on a residential basis is worth \$3 million but in a business-cum-residential basis with the frontage on Tanglin Road \$4.9 million. Eventually property sold on a residential basis of \$1 million; property market fell at that time. Company had no income formed for the purpose of purchasing Tomlinson Road and selling at a profit. Instructions were given to our solicitors to proceed against the 1st, 2nd, 3rd and 4th defendants in 1977. Judgment was obtained against the 1st, 2nd and 3rd defendants. On 1.11.77 4th defendant came to the bank and requested us to withhold bankruptcy proceedings and allow her time to re-pay her obligations as guarantor for the 1st defendant. She came with a proposal for financing another company for which she was an agent and if she could raise the loan for this company she would get a commission of half percent of one percent from a loan of \$5 million and she would use the commission to set off her obligations. At the meeting was Mr. P.J. Amick, Mr. G.M. Glass and myself. During the discussion she sometimes would speak in English and sometime I would act as interpreter. She was not very conversant in English but she gave me the impression she was a business woman and knew what she was talking about. We rejected her proposals; she asked us to withhold bankruptcy proceedings to invoke our sympathy as she had no property left. At no time did Madam Tan dispute her liability. She was very co-operative and left us her telephone numbers at which she could be contacted. She also gave us

an account of her property and how they were disposed of. She also spoke of her past tussels with Edward Kong on the property at Tomlinson Road and Ridley Park. Nothing material transpired. AB2 is the standard form of guarantee used by the bank. No payment made to account by anyone.

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Examination
(continued)

Court adjs to a date to be fixed.

By me: D.C.D'Cotta

10

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suit No. 1464 of 1977

Between

The First National Bank of
Chicago

Plaintiffs

And

How Lee Realty Pte. Ltd.
and 3 others

Defendants

20

F. Mallal for the Plaintiffs
J.B. Jeyaretnam for the Defendants

Wednesday, 16th January 1980 Coram: D'Cotta J 16th January
1980

NOTES OF EVIDENCE

P.W.2 Yew-Kwan Mei Sin on her former affirmation
XN-in-chief (cont'd)

Value of 10 Tomlinson Road in April 1973
given by a professional valuer was \$4.86
million.

30

I produce Report - admitted & marked P5

Witness tenders

Ledger Card for 1973 - marked P6
for 1974 - marked P7

P6 evidences drawings of 1st Defendant
company on the facilities of the overdraft.
1st Defendant company mortgaged 10 Tomlinson
Road.

I produce photostat copy - marked P8.

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Examination

16th January 1980

(continued)

1st Defendant company was over-drawn in excess of limit granted. We waived some credit in the form of cheque payments from April-July 1974; till the end of 1974 the amount overdrawn \$2.67 million was well in excess of the over-draft permitted. No credit made in 1975 or 1976. During our interview in November 1977 at no time did 4th Defendant dispute her liability. I wrote a memo of the meeting.

10

Memo admitted & marked P9

(Jeyaretnam reserves his right to object to its admission after consulting his client)

P.9 was written by me after the meeting. According to our record 4th Defendant never disputed her liability, neither did she write to the Bank about it. 4th Defendant did not deny liability to AB8. 1st and/or 4th Defendant never object to sale of 10 Tomlinson Road. The Bank gave every opportunity to 1st Defendant company to redeem the property. Records show 4th Defendant assisted or was involved in selling the property. I have made memos from meetings and discussions which took place between 4th Defendant, myself and members of the Bank.

20

I produce memos - marked P10, P11 and P12 P10 was written by my predecessor in office Mathew Lim. P10 obtained from our records. I don't know whereabouts of Mathew Lim.

30

Cross-examination

XXN by Jeyaretnam:

Q. You took over accounts from end of 1977.

A. Yes.

Q. Prior to this your evidence is obtained from records in the Bank.

A. Yes.

Q. You have no personal knowledge until end of 1977.

40

A. That is correct.

Q. Not involved in over-draft negotiations or with guarantors.

A. That is right.

Q. When did you take over management.

A. Around 1.11.77.

Q. Have you made any enquiries as to where Mr. Mathew Lim is.

	A.	I was told he was in prison and would be discharged soon.	In the High Court
	Q.	Since Oct. 1978, have you made an enquiries as to his whereabouts.	Plaintiff's Evidence
	A.	No.	No.6
	Q.	He is at 137 Golden Mile Tower, 17th Floor, Beach Road.	Notes of Evidence
	A.	I would not know.	P.W.2 Yew-Kwan Mei Sin
10	Q.	Before 1.11.77 4th Defendant had not disputed her liability.	Cross-Examination
	A.	That is so.	16th January 1980
	Q.	Were you aware prior to 1.11.77 Bank had commenced proceedings against 4th Defendant.	(continued)
	A.	I was aware.	
	Q.	Were you aware on 1.11.77 Bank had applied to sign final judgment against 4th Defendant.	
	A.	I am but I cannot say if the date was 1.11.77.	
20	Q.	Were you aware she was disputing liability through her solicitors.	
	A.	I am not.	
	Q.	Are you aware Bank failed in its application.	
	A.	Yes.	
	Q.	When was property sold to U.R.A.	
	A.	Some time in 1977 - 19.7.77.	
	Q.	At the time you were not managing this account.	
	A.	That is so.	
30	Q.	Was Mr. Mathew Lim managing it.	
	A.	No Mr. Pacopeiro was.	
	Q.	When did Mr. Lim leave the Bank.	
	A.	March 1976.	
	Q.	Who managed it after him.	
	A.	Mr. P.Kennick and Mr. Weyman.	
	Q.	How long did they manage the accounts.	
	A.	All above 3 at various times.	
	Q.	When did negotiation commence.	
	A.	Around March 1977 with an offer from U.R.A.	
40	Q.	Have you the correspondence.	
		Witness produces - admitted & marked <u>P13</u>	

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Cross-examination

16th January 1980

(continued)

Q. Was 4th Defendant aware of sale to U.R.A.

A. I think she should be as she was involved in selling the property.

Q. Nowhere in Pl3 is there a letter to 4th Defendant to inform her that Bank was selling the property to U.R.A.

A. No.

Q. Is there any note that 4th Defendant or 1st Defendant was orally told of proposed sale.

A. No.

Q. On what do you base your statement that 1st Defendant or 4th Defendant should have been aware.

A. Because they had been trying to sell the property before this time.

Q. Would you agree if they were trying to sell they should have been informed of sale to U.R.A.

A. No.

Q. It was an open sale.

A. By private treaty.

Q. Is there a note in your records of your obtaining a valuation between March-July 1977.

A. No official valuation.

Q. No Valuation at all.

A. That is right.

Q. 4th Defendant was not aware at all of sale to U.R.A. and only became aware of it after the sale when she saw the U.R.A. bill board on the land.

A. I can't comment, no official record.

Q. Is it a mistake when you said 4th Defendant assisted in the sale.

A. I didn't mean she assisted in the sale to U.R.A.

Q. When was account of 1st Defendant first opened.

A. 25.4.73.

Q. Any note or memo of circumstances surrounding the opening of account.

A. I will check in file.

Q. Who applied to the Bank.

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20

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In the High
Court

Plaintiff's
Evidence

No6

Notes of
Evidence
P.W.2. Yew-Kwan
Mei Sin
Cross-
Examination

16th January
1980

(continued)

- A. Edward Kong.
- Q. Application made to Matthew Lim.
- A. Yes.
- Q. What was the loan required for.
- A. To purchase 10 Tomlinson Road.
- Q. Any note of negotiations.
- A. I'll have to peruse the records.
- Q. Was money released to 1st Defendant or was it paid to purchasers.
- 10 A. I'll have to check.
- Q. Over-draft fully utilised by purchase.
- A. Apparently so.
- Q. It was.
- A. Yes.
- Q. Any drawings on this account by the company.
- A. No, apart from possibly one transaction.
- Q. Before Bank agreed to finance was any investigation made of 1st Defendant.
- A. No.
- 20 Q. Was trading accounts of company asked for.
- A. No, this is a new company.
- Q. Formed for sole object of holding this property.
- A. Yes.
- Q. With capital of \$2/-.
- A. Yes.
- Q. Any note as to who comprised the company.
- A. Yes.
- Q. Who.
- 30 A. Edward Kong and his wife.
- Q. According to records, Ng Ah Bah and Lee Ah Moi were original subscribers; company incorporated on 12.1.73.
- A. Yes and they transferred to Lim Sin and Thiam Beng.
- Q. Edward Kong and his wife executed a guarantee for repayment.
- A. Yes.
- 40 Q. Do your Bank lend 2½ million without investigation.

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Cross-Examination

16th January 1980

(continued)

- A. In this case no owing to value of land
- Q. Were payments towards interest made.
- A. Yes.
- Q. Payments approximated to the interest.
- A. Yes.
- Q. Is there any note in your records that the Bank had come to know that 4th Defendant was concerned in this transaction.
- A. I produce the note - marked P14.
- Q. No note as to 4th Defendant being involved. 10
- A. No.
- Q. Over-draft initially was for one year.
- A. Yes.
- Q. Any record as to what transpired in April 1974.
- A. No.
- Q. Any note to say any attempt made to call in the loan.
- A. No, we don't normally recall the loan, it depends on the situation. 20
- Q. Any steps by the Bank for recovery of the loan.
- A. No written record.
- Q. The only record is a letter at AB5.
- A. Yes.
- Q. Any note of any discussion with 4th Defendant at this stage.
- A. No.
- Q. Is there a letter from 4th Defendant to the Bank not to ask for recovery of the loan in 1974. 30
- A. No.
- Q. No demand made for recovery of loan in 1974.
- A. That is so.
- Q. Nothing by her by way of request not to take action on the loan.
- A. No.
- Q. Is there any record of how the guarantee given by the 4th Defendant to be executed by her. 40
- A. No.

- 10 Q. No explanation as to how it was procured.
 A. No.
 Q. Is it your Bank's practice to accept a guarantor without any investigation.
 A. If they are known, no.
 Q. Does the Bank acquaint guarantor with amount of debt.
 A. No fixed rule.
 Q. In 1974 were Lim Sin and Thiam Beng your solicitors.
 A. Yes.
 Q. Were they asked to witness the execution of the guarantee by the 4th Defendant.
 A. No.
 Q. When did the Bank become anxious about repayment of the loan.
 A. 1975.
 Q. When was the first attempt made by the Bank to sell the property.
 20 A. Towards the end of 1973.
 Q. What was the amount due to the Bank in August 1973.
 A. \$2.49 million.
 Q. That didn't go through, when was the next.
 A. There are many.

By me: D.C.D'Cotta

Court adjs to 10.30 a.m. on 17.1.80

Thursday, 17th January 1980

In the High Court
Plaintiff's Evidence
 No.6
 Notes of Evidence
 P.W.2 Yew-Kwan Mei Sin
 Cross-Examination
 16th January 1980

(continued)

- 30 Parties as before
 P.W.2 Yew-Kwan Mei Sin
 XXN by Jeyaretnam (cont'd)
 Q. Mr. Amick still in Singapore.
 A. No, he has left the Bank.
 Q. Victor Sim?
 A. He has also left the Bank.
 Q. Was he working under Mr. Matthew Lim.
 A. Yes.
 Q. What was his position.
 A. Assistant to Mr. Lim.

17th January 1980

In the High
Court

Plaintiff's
Evidence

No.6
Notes of
Evidence
P.W.2. Yew-Kwan
Mei Sin
Cross-
Examination

17th January
1980

(continued)

- Q. Is he still in Singapore.
- A. Yes.
- Q. Any drawings by the company on this account.
- A. I don't think because the loan fully utilised in May 1973, this is subject to confirmation.
- Q. Was there negotiations for sale of No.10 with Malayan Credit in August 1974.
- A. I produce report - marked P15. 10
- Q. Malayan Credit were offering \$5 million.
- A. Yes.
- Q. Kong jacked up price to \$6 million.
- A. It would appear.
- Q. Amount due to bank on the loan in August 1974 was \$2.5 million.
- A. Yes.
- Q. What was negotiation of Bank with Kian Guan about.
- A. I have a report - produces - marked P16. 20
- Q. Bank attempted to sell to Lauw & Sons.
- A. I produce report - marked P17.
- Q. January 30, 1975, Malayan Credit appeared again.
- A. I produce report - marked P18.
- Q. Put: Sale to Malayan Credit was ditched by Matthew Lim by disclosing 1st Defendants commitment to the Bank.
- A. I can't answer that. 30
(Jeyaretnam tenders letter - marked P19
Bank's reply to that letter - marked P20)
- Q. My instructions are there was a meeting between Matthew Lim, Kong, Tay etc. on Francis C.H.Lee's letter and all they told Matthew Lim was that \$2.5 million was not adequate to cover the over-draft.
- A. I will check the amount due to the Bank.
- Q. My instructions are Matthew Lim asked for \$4 million. 40
- A. P20 is the reply.

	Q.	Did the Bank receive a letter dated 16.3.76 from C.H.Lee and Co.	In the High Court
	A.	Yes.	Plaintiff's Evidence
	Q.	In December 1976 the Bank put up property for auction.	No.6
	A.	Yes.	Notes of Evidence
	Q.	The Bank appointed Richard Ellis as your sale agent.	P.W.2 Yew-Kwan Mei Sin
	A.	Yes.	Cross-Examination
10	Q.	When was appointment made.	17th January 1980
	A.	January, 10th 1977.	
	Q.	Auction conducted by Richard Ellis.	(continued)
	A.	Yes.	
	Q.	Did you inform mortgagors of Ellis appointment.	
	A.	No letters in file.	
	Q.	There was a firm offer of £1.25 million at the auction.	
20	A.	I spoke to the auctioneer who said there was no bid.	
	Q.	(Jeyaretnam tenders two letters - marked collectively <u>P22</u>)	
	Q.	In December 1976 you were prepared to sell without arrangements for repayment.	
	A.	I did not know the reserved price.	
	Q.	Was Amick with the Bank in July 1977.	
	A.	I think so.	
	Q.	Any note of a meeting in July 1977 between Amick and 4th Defendant.	
30	A.	Yes there is.	
	Q.	My instructions are 4th Defendant told Mr. Amick she would be bringing a purchaser willing to pay in excess of \$1.5 million and not to do anything till she sees him in two weeks.	
	A.	I can't find any note to that effect.	
	Q.	At no time was it disclosed to her that the Bank was selling or proposed to sell the property to U.R.A.	
40	A.	I wouldn't know.	
	Q.	She called at the Bank, was very angry and shouted at Amick.	
	A.	I don't know.	

In the High Court
Plaintiff's Evidence
No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Cross-Examination
17th January 1980
(continued)

(Jeyaretnam tenders letter - marked P21)

- Q. November 1, 1977 4th Defendant called.
- A. Yes to see Amick or Glass.
- Q. Was that the first time you met her.
- A. Yes.
- Q. Main interest in her visit was to get the Bank to give a loan to Ho Kok Cheong - a lot of the discussion centred on this.
- A. Yes.
- Q. You interpreted. 10
- A. In part, yes.
- Q. Para.1 of P9 talks of the loan.
- A. She was guarantor of Eastwood Enterprises; there are group of accounts Ed. Kong was involved in. Loan is more than one; I remember H.L.R. and Eastwood.
- Q. Have you any records of 4th Defendant's connection apart from H.L.R.
- A. I have, I can produce.
- Q. Before 1.11.1977, the Bank obtained judgment against H.L.R. and the 2nd and 3rd Defendants. 20
- A. Yes.
- Q. 4th Defendant disputed claim against her.
- A. Yes.
- Q. Is there anything in P9 in which 4th Defendant says she is liable on the guarantee.
- A. She never said she is but asked us not to take bankruptcy proceedings. I was not making a verbatim report; I was summarising it. 30
- (Mallal tenders Powers of Attorney - marked P23)
- Q. The only other case when 4th Defendant stood guarantee is the Eastwood case.
- A. Yes I produce guarantee - marked P24.
- Q. Then to say most of bank's loans connected with 4th Defendant are bad loans is exaggerated. 40
- A. Yes.
- Q. What is the position as regards P24.

A. On October 10th, 1978 we were awarded judgment against the company and guarantor.
Q. For how much.
A. I can't say it is not a huge amount.
Q. You swore an affidavit on 11.11.77.
A. Yes.
Q. AB5 contains the terms.
A. Yes.

In the High Court
Plaintiff's Evidence
No.6
Notes of Evidence
P.W.2 Yew-Kwan Mei Sin
Cross-Examination
17th January 1980
(continued)

By me: D.C.D'Cotta

10 RXN: The Bank first came to know that 4th Defendant was disputing liability from her affidavit of 4.11.77.

Re-examination

I produce letters regarding purchase by U.R.A. admitted and marked P13A.
I also produce letters from M/s. Francis C.H.Lee and Co. - admitted & marked P25.

20 We object to P25 as we will not be paid off according to their proposal. The Bank gave 1st Defendant about 2½ years time within which to redeem.

Court adjs to a date to be fixed.

By me: D.C.D'Cotta

wsc/cn

Continuation of Suit No. 1464 of 1977

F.Mallal for the Plaintiffs
J.B.Jeyaretnam for the Defendants

P.W.3 Edward Kong Kee Yee
Examination
12th March 1980

Wednesday, 12th March 1980 Coram: D'Cotta J.

30 P.W.3. Edward Kong Kee Yee sworn/English
41 Thomson Terrace, Singapore.
Commission Broker. Originally I purchased a piece of land 10 Tomlinson Road in March 1973. After I paid the 10% deposit for the land I required additional facilities for the balance payment. Purchase price was about \$2.7m. I spoke to M/s. Lim Sin and Thiam Beng with a view to obtaining a loan from some bankers. Mr. Thiam Beng recommended Mr. Matthew Lim of the First National Bank of Chicago. I had discussion with the
40

In the High Court

Plaintiff's Evidence

No.6

Notes of Evidence

P.W.3 Edward Kong Kee Yee Examination

12th March 1980

(continued)

latter discussing loan for finalisation of the purchase. Mr. Lim told me he required a valuation. I approached Victor & Mendis, approved valuers, to value the land for the Bank. They valued at \$4.8 million the market price. Mr. Lim approved the loan by mortgage of the property for \$2.5 m. overdraft. One day later he gave me a formal acceptance letter from the Bank - ABL. We required a company. I asked Thiam Beng to form a company. He told me it will take time to form a company, in the meantime he had a company already formed. He asked me to take over the company to be named How Lee Realty Pte Ltd. I paid \$5,000/- to the lawyers to take over the company for all expenses incurred by them. Steps were taken to transfer the company to my wife and myself. Thiam Beng attended to legal formalities i.e. the mortgage etc. I was required to execute guarantees for myself and my wife - Pl and PlA. Plaintiffs approved the overdraft and paid the balance purchase price to solicitors for the Vendor. Madam Tan Lai Wah recommended me to purchase this property. She was a broker. Property owned by Tomlinson Pte. Ltd. Accounts were to be reviewed after one year. For the first year company paid interest regularly; if I was short of money I would borrow from Madam Tan. I did borrow from her. Before expiry date Plaintiffs told me they were prepared to review facilities provided I pay 2% commitment fees as well as provide additional security or guarantor acceptable to the Bank. I don't know why Plaintiffs wanted additional security or guarantor but they intimated that they would feel more comfortable. I informed Plaintiffs I would look for additional security. Plaintiffs suggested Madam Tan as guarantor since I had other business with her. I had discussions with Madam Tan if she would stand guarantor for an extension of another year of facilities given to me. She said that land was good price at \$130 per sq. ft. and she agreed to be guarantor. Plaintiffs agreed to accept Madam Tan as guarantor. Plaintiffs gave me the form for Madam Tan to sign to be witnessed by Lim Sin or Thiam Beng. I gave Madam Tan the form and she signed it. I took it to the lawyers for either one of them to witness Madam Tan's signature.

I could not find Thiam Beng but Lim Sin was there. I gave him the form and told him Madam Tan had signed it and the Bank wanted me to get Lim Sin or Thiam Beng to witness Madam Tan's signature. Lim Sin took the form and telephoned to Madam Tan in my presence. He spoke to Madam Tan in Hokkien. I understood what was said when Lim Sin spoke to Madam Tan. He said in Hokkien "Mummy, Edward Kong is in front of me with a bank guarantee form on the land 10 Tomlinson Road. Are you happy with the form you signed.". I did not hear what Madam Tan had to tell him. Lim Sin put down the phone and said to me "She is happy what she signed, I will sign as a witness". AB2 and 3 is the guarantee. I went to the Plaintiffs and gave the form to the manager, Mr. Lim. Plaintiffs agreed to renew the overdraft facilities. I recognise AB5. I signed it as requested. In the early part of 1974, interest was paid regularly; in the latter half of 1974 due to financial difficulties payments became irregular. Company paid interest; when I was short of money I borrowed from Madam Tan to pay interest. On one occasion M/s Lim Sin & Thiam Beng paid \$30,000/- to Plaintiffs which sum I borrowed from Madam Tan. Madam Tan was appointed Director of How Lee on 7.6.76. In October, Plaintiffs obtained judgment against How Lee on the guarantee; judgments were also obtained against my wife and myself. I was trying to negotiate sale of property to pay off the money owing to Plaintiffs; Plaintiff bank had no alternative but to dispose of the property.

In the High Court
Plaintiff's Evidence
No.6
Notes of Evidence
P.W.3 Edward Kong Kee Yee
Examination
12th March 1980
(continued)

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By me: D.C.D'Cotta

P.W.3. Edward Kong Kee Yee
XXN by Jeyaretnam:

Cross-
Examination

Q. Do you agree bank has no alternative.

A. They could have held on

Q. You are an accountant.

A. Yes.

Q. Where were you practising.

A. In Johore Bahru.

Q. When did you get interested in Singapore land dealings.

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In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.3 Edward
Kong Kee Yee
Cross-Examination
12th March
1980
(continued)

- A. 1968 or 1969 after 3 years in J.B.
- Q. Did you practise here.
- A. No.
- Q. What did you do.
- A. Financing purchase of motor cars - Credit Investment.
- Q. How long were you in this type of business.
- A. A couple of years.
- Q. What did you do then.
- A. Moved into property market. 10
- Q. Then you met Madam Tan.
- A. Yes.
- Q. When.
- A. 1970 or 1971.
- Q. She was in the same line.
- A. Yes.
- Q. You became closely associated with her
- A. Yes.
- Q. You knew her quite well.
- A. Yes. 20
- Q. In what language do you converse with her.
- A. Most of the time in Hokkien.
- A. Cantonese.
- Q. Any other language.
- A. Very seldom.
- Q. You are proficient in English.
- A. Yes.
- Q. Do you know Madam Tan's educational qualification.
- A. Very low education as far as I know. 30
- Q. Has she had any English education.
- A. As far as I know I don't think so.
- Q. Have you come across her once reading anything in the English language.
- A. Never.
- Q. Do you know if she can read English.
- A. I don't think, she can only speak broken English.
- Q. You went to Madam Tan's office.

	A. Yes, 122 Cecil Street.	In the High Court
	Q. Have you been to it before.	<u>Plaintiff's Evidence</u>
	A. Yes.	No.6
	Q. Who handles her correspondence in English.	Notes of Evidence
	A. She has a clerk who files and does some of the letters.	P.W.3 Edward Kong Kee Yee
	Q. You bought Tomlinson Road as an investment.	Cross-Examination
	A. Yes.	12th March 1980
10	Q. What project had you in mind.	(continued)
	A. Developer.	
	Q. You gave the impression you were forming a company.	
	A. Yes.	
	Q. The Bank were happier making a loan to a company.	
	A. Correct.	
	Q. Did How Lee Realty do any business at all.	
20	A. No it was only interested in 10 Tomlinson Road.	
	Q. Any assets.	
	A. Nothing.	
	Q. Capital \$2/-.	
	A. Yes.	
	Q. Did your company get further advances from the bank apart from overdraft for No.10.	
	A. No.	
30	Q. Did you have any further loan apart from \$2.5 m.	
	A. Yes, \$50,000/-.	
	Q. Apart from that.	
	A. No.	
	Q. \$50,000/- commitment fees.	
	A. Yes.	
	Q. How much did you borrow from Madam Tan for payment of interest.	
	A. Over \$100,000/-.	
40	Q. Were there any discussions when you asked her for her help.	
	A. Yes.	

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.3 Edward Kong Kee Yee
Cross-Examination
12th March 1980
(continued)

- Q. What were they.
- A. I told her I was prepared to offer her a 50-50% basis in the land project in return for her helping out on payment of interest.
- Q. When did this discussion take place.
- A. Within the first year of 1973, originally she was to have 25%. another party 25%, that other party failed, so gave Madam Tan 50%.
- Q. This was agreed before the end of 1973. 10
- A. Yes.
- Q. Anything in writing.
- A. No.
- Q. Did she ask for some tangible showing her 50% share.
- A. No.
- Q. Did she ask to be director.
- A. No.
- Q. Did she express fear or concern. 20
- A. No.
- Q. My instructions are she was.
- A. Not to my knowledge.
- Q. Interest payments were made regularly.
- A. For the first year and first part of 2nd year during which time we paid over \$400,000/-.
- Q. How much by Madam Tan.
- A. \$100,000/- by way of interest and other private loans.
- Q. Did the bank make a demand for payment in April 1974. 30
- A. No.
- Q. Any indication that the Bank was going to call in the loan.
- A. No.
- Q. All your discussions were with Matthew Lim.
- A. Most of them.
- Q. In April 1974 did he say the bank was going to call in the loan.
- A. No. 40
- Q. This was never brought up.
- A. No.

	Q.	How did it come about.	In the High Court
	A.	At one of our lunches.	<u>Plaintiff's Evidence</u>
	Q.	Who brought up the question of review.	No.6
	A.	Matthew Lim.	Notes of Evidence
	Q.	How.	P.W.3 Edward Kong Kee Yee
10	A.	He said it is coming up for review for extension; he didn't think there would be any problem. He said he would do his best to recommend for it was valued again this time at \$4.9 m. We would have to pay \$50,000/- commitment charges to the Bank for overdraft extension. He said it would make it easier for him to recommend extension if additional security or a guarantor was provided.	Cross-Examination 12th March 1980
	Q.	Was anything said about the Bank calling in the loan.	(continued)
	A.	No.	
	Q.	What did you say to him.	
20	A.	I said it was difficult to find additional security; I would think about getting a guarantor acceptable to the Bank.	
	Q.	Then.	
	A.	Matthew Lim suggested that since I had so much business dealings with Madam Tan, why not I approached her to be the guarantor.	
	Q.	Then.	
	A.	I said if the bank accepts Madam Tan I would approach her.	
30	Q.	By this time you had a lot of business dealings with her.	
	A.	Buying and selling land since 1971.	
	Q.	You were not in partnership.	
	A.	No.	
	Q.	Was she a good business woman.	
	A.	Yes.	
	Q.	She knew the business of buying and selling land.	
	A.	Yes she knew it well.	
40	Q.	Matthew Lim knew Madam Tan.	
	A.	Yes.	
	Q.	Did Madam Tan go with you to the bank.	
	A.	No.	

In the High
Court

Plaintiff's
Evidence

No.6

Notes of
Evidence

P.W.3 Edward
Kong Kee Yee
Cross-
Examination

12th March
1980

(continued)

- Q. She had nothing to do with the loan arrangements.
- A. No.
- Q. What happened after.
- A. A few days later, I had a word with Madam Tan.
- Q. What did you tell her.
- A. She knew of my transaction with the Plaintiffs; I told her the bank would like additional security or a guarantor and Matthew Lim suggested her. 10
- Q. Did you ask her to be a guarantor.
- A. Yes.
- Q. Did she know the amount of mortgage.
- A. I don't think she knew.
- Q. Did she agree.
- A. She told me Tomlinson Road property was very valuable and she would not mind coming in as a guarantor.
- Q. Did you tell her at this meeting that your wife and you had already executed guarantees and that you would like her to be a 3rd guarantor. 20
- A. Yes I did.
- Q. Did Madam Tan say anything else.
- A. Yes she said since you are offering me 50% share of the land I am prepared to come in as a guarantor for the land.
- Q. You told Mr. Lim of this.
- A. Yes I did. 30
- Q. This would be some days after you spoke to Madam Tan.
- A. Yes.
- Q. After that one day you went out with Mr.Lim and Thiam Beng for lunch.
- A. Yes.
- Q. Mr. Lim produced the guarantee form.
- A. Yes - witness produces a slip - marked P2A.
- Q. Were the type written words filled in. 40
- A. I think they were.
- Q. Are you sure.
- A. I cannot say.

	Q.	Anything else said.	In the High Court
	A.	No.	<u>Court</u>
	Q.	After lunch you proceeded to see Madam Tan.	Plaintiff's Evidence
	A.	Yes.	No.6
	Q.	You took 3 copies of the same form to her.	Notes of Evidence
	A.	Yes.	P.W.3 Edward Kong Kee Yee
	Q.	What time was this.	Cross-Examination
	A.	After lunch 2 plus.	
10	Q.	She was in her room with her clerk, Esther.	12th March 1980
	A.	Yes.	(continued)
	Q.	What did you tell Madam Tan.	
	A.	I told her in Hokkien that this is the guarantee form on the Tomlinson Road property; I reminded her about the Bank requiring a guarantor; she just signed the guarantee.	
	Q.	Did you tell her you had just come from lunch with Mr. Lim and Thiam Beng.	
20	A.	Yes.	
	Q.	Did you tell her Mr. Lim wanted her to sign the form which was a guarantee on the Tomlinson Road property.	
	A.	Yes.	
	Q.	Did she ask any questions.	
	A.	No.	
	Q.	Did you tell her you were in a hurry.	
	A.	I might have told her as soon as you sign this I must rush to the lawyer to sign it.	
30	Q.	My instructions are you said, come on, come on this is the Tomlinson Road guarantee you just sign.	
	A.	I am not sure what I said, I might have used it, I might not.	
	Q.	She signed all 3 copies.	
	A.	Yes.	
	Q.	When you signed it did you read the form.	
	A.	No.	
40	Q.	Did you explain to Madam Tan the contents of the document.	
	A.	No I did not explain.	
	Q.	Did she try to read it.	

In the High
Court

Plaintiff's
Evidence

No.6
Notes of
Evidence
P.W.3 Edward
Kong Kee Yee
Cross-
Examination

12th March
1980

(continued)

- A. No.
- Q. Did she ask for it to be read to her.
- A. No she did not.
- Q. Did you tell her it was an unlimited guarantee.
- A. No I didn't.
- Q. You knew what an unlimited guarantee is.
- A. At that time I didn't, now I am being sued I know.
- Q. That's all that you said. 10
- A. Yes.
- Q. Then you proceeded with the 3 forms to the office of Lim Sin & Thiam Beng.
- A. Yes.
- Q. What did you tell Lim Sin.
- A. I told him Madam Tan had signed the guarantee form and Mr. Lim wanted either you or Thiam Beng to witness Madam Tan's signature. I showed him P2A.
- Q. You didn't tell him M. Lim requested him to witness it. 20
- A. No I gave him P2A.
- Q. Then what did he do.
- A. He looked at the form and telephoned Madam Tan.
- Q. Where were you.
- A. Sitting right in front of him.
- Q. Apart from what you told us earlier did Lim Sin say anything else to Madam Tan.
- A. No. 30
- Q. Are you sure.
- A. I am.
- Q. Lim Sin said in evidence to Madam Tan that the document was important and she should call at his office for him to explain that to her.
- A. I didn't hear that.
- Q. You are sure.
- A. Yes.
- Q. Did he say "if you are busy I can call at your office to explain it to you. 40
- A. I didn't hear that.

Q. You are sure.

A. Yes the whole thing took place very fast.

Q. Did you hear him say he was a lawyer and would explain it to her if she came to his office.

A. I didn't hear that.

Q. Did he witness all the 3 documents.

A. Yes.

Q. Then what did you do.

10 A. I left.

Q. Where did you go.

A. To the Bank.

Q. You saw Matthew Lim.

A. Yes.

Q. When did you pay \$50,000/- to the Bank.

A. I can't remember.

Q. Put: It was paid before the guarantee was signed by Madam Tan.

A. That is right.

20 Q. After the guarantee was signed did the Bank make any other advances.

A. No except the \$50,000/-.

Q. Did you ascertain if \$50,000/- was paid to the Bank and if the Bank required the commitment charge.

A. Matthew Lim told me Bank required the commitment charge.

Q. Did you ascertain if the Bank required the \$50,000/-.

30 A. No. Matthew Lim said to pay and I did.

In the High Court .
Plaintiff's Evidence
 No.6
 Notes of Evidence
 P.W.3 Edward Kong Kee Yee
 Cross-Examination
 12th March 1980
 (continued)

By me: D.C.D'Cotta

Thursday, 13th March 1980

13th March 1980

Parties as before.

P.W.3 on his former affirmation -

XXN by Jeyaretnam (cont'd)

Q. Did you later ascertain if this fee was due to the Bank.

A. About a year or so later an official of the Bank was surprised I paid such a fee

40 Q. Later on did you find out anything.

In the High Court

Plaintiff's Evidence

No.6
Notes of Evidence
P.W.3 Edward Kong Kee Yee
Cross-Examination

13th March 1980

(continued)

- A. Bank said they did not charge commitment charges and reported case to the Police.
- Q. Has \$50,000/- been repaid to you.
- A. Yes, Matthew Lim paid it into the company's accounts.
- Q. Did this money come from the Bank.
- A. I would not know.
- Q. Was Matthew Lim charged.
- A. Yes.
- Q. Did the company continue to pay interest. 10
- A. Yes.
- Q. Part of your 1974 payments were obtained from Madam Tan.
- A. That is right.
- Q. When company could not make payment did the Bank call you in.
- A. Yes, end of 1974 beginning of 1975, Matthew Lim called me in.
- Q. Was it agreed that efforts should be made to try and find a purchaser for the land so that Bank could be paid off. 20
- A. Yes.
- Q. What was the amount due to the Bank then.
- A. Roughly \$2.6 m. or a little more.
- Q. Did Madam Tan take part in this discussion.
- A. The first discussion no, but after the first discussion I related to her what I discussed with M. Lim.
- Q. She agreed to try and find a purchaser.
- A. Yes. 30
- Q. The Bank, you and Madam Tan were trying.
- A. Yes.
- Q. Was any purchaser found?
- A. Kian Guan owned the adjoining land; they were not willing to purchase but were prepared to sell jointly with us; planning permission would only be given if Kian Guan's plot was joined.
- Q. Did anything come out of this.
- A. No. 40
- Q. Was M. Lim involved.
- A. Bank was kept informed.

	Q.	Was anyone else interested.	In the High Court
	A.	Madam Tan recommended Mr. Seah to me, after discussion bank was not prepared to allow Mr. Seah to take over account without reducing loan or providing additional security.	Plaintiff's Evidence
	Q.	What was the value of land then in 1975.	No.6
	A.	Still worth about \$4.2 or 5 million.	Notes of Evidence
	Q.	Next.	P.W.3 Edward Kong Kee Yee
10	A.	There were a number.	Cross-Examination
	Q.	What about Malayan Credit - a Mr. Chris Chua.	13th March 1980
	A.	Madam Tan contacted him.	(continued)
	Q.	When was this.	
	A.	July or August 1974.	
	Q.	Would this be the first attempt to sell.	
	A.	No, I was informed of this but not involved; Madam Tan said M. Credit were prepared to pay \$5 million.	
20	Q.	In P15, M. Lim blames you for failure of this sale.	
	A.	That is not true. I never asked for \$6 million; If I had a \$5 m. offer I would be a millionaire why should I not sell; we would have sold for \$5 m.	
	Q.	Why didn't sale go through.	
	A.	I am not sure.	
	Q.	Was there any other proposed sale.	
30	A.	Early 1975 Peoples Park Complex, this did not go through; they had no funds to purchase Kian Gwan.	
	Q.	And then.	
40	A.	In January 1975 there was a further negotiation with Malayan Credit; I went to their office and saw Chris Chua as well as Manaf Ghows. They made an offer of \$4.5m; I accepted the offer. Their architect Seah, Yu and Yeow were called to the office to work out a feasibility study on the potential of that property. Directors said they would contact the Bank themselves. Few days later one of the directors told Madam Tan they are not interested in the land as M. Lim had made some remarks i.e. he disclosed the price paid by the company for the purchase and Malayan Credit were annoyed that they were	

In the High Court
Plaintiff's Evidence
No.6
Notes of Evidence
P.W.3 Edward Kong Kee Yee
Cross-Examination
13th March 1980
(continued)

- trying to make substantial profit.
- Q. Did you check with directors of Malayan Credit.
- A. Yes with Ghows, he said he would drop proposal to purchase.
- Q. Did Malayan Credit emerge again.
- A. No.
- Q. Did you check with M. Lim.
- A. I rang him and was very angry and asked him why he did this to me in time of my difficulties. 10
- Q. Do you know anything of P19.
- A. Yes.
- Q. Did you negotiate this sale.
- A. Both Madam Tan and I negotiated. Mr. Tay is a client of Madam Tan. They had some other transactions.
- Q. Were you prepared to accept this offer.
- A. In 1976 property price was going down; I would have accepted anything to cover amount due to the Bank. 20
- Q. Was Mr. Tay going to purchase your land and Mr. Oei's land i.e. the adjoining land.
- A. If properties were amalgamated permission could have been obtained; bank would have been satisfied.
- Q. Did you see anyone in the Bank re P19.
- A. Yes I saw Mr. Victor Thio; I went with Madam Tan. We told Mr. Thio if we can sell the land and pay off the bank we would be very happy. 30
- Q. What was the amount due to the bank.
- A. It was \$3.2m.
- Q. Did you tell Thio you wanted \$4 million.
- A. No.
- Q. Did Madam Tan say it.
- A. I don't think she would.
- Q. Were you surprised at P20.
- A. I rang Mr. Thio, he told me our outstanding was about \$3m; they asked for \$4m, let them counter. 40
- Q. According to P11, you and Madam Tan asked for \$4 m.

	A. Madam Tan said if both properties were joined the purchase price would be \$8m plus.	In the High Court
	Q. You never asked for \$4m.	Plaintiff's Evidence
	A. No, all I asked was to cover the overdraft.	No.6
	Q. You received P21.	Notes of Evidence
	A. Yes.	P.W.3 Edward Kong Kee Yee
	Q. Did you do anything about it.	Cross-Examination
10	A. I think I asked Madam Tan to negotiate with Mr. Tay to close at \$3m.	13th March 1980
	Q. Did you tell the Bank to accept \$3m.	
	A. I think I did.	(continued)
	Q. Why was not property sold.	
	A. Probably because of condition for amalgamation.	
	Q. Did you ring Mr. Thio on receiving P21.	
	A. Yes I did and asked him to close the deal at \$3m.	
	Q. What did he say.	
20	A. Bank would discuss.	
	Q. After Mr. Tay was there another attempt.	
	A. Madam Tan did all the negotiations; she had more contact than me in land sales.	
	Q. In December 1976, were you present at the auction sale when the property was put up for sale.	
	A. Yes.	
	Q. Richard Ellis were auctioneers.	
	A. Yes.	
30	Q. Was property sold.	
	A. No.	
	Q. What was the highest bid.	
	A. Slightly over \$1.2m. at \$31 p.s.f.	
	Q. Was it accepted.	
	A. No.	
	Q. Was there an attempted sale to Asian Kingship Dev. Pte. Ltd.	
	A. Yes.	
	Q. Before or after the auction.	
40	A. I can't remember - after Mr. Tay's offer.	
	Q. Were you involved.	

In the High Court

Plaintiff's Evidence

No.6

Notes of Evidence

P.W.3 Edward Kong Kee Yee Cross-Examination

13th March 1980

(continued)

- A. In part of it.
- Q. What was the price offered.
- A. \$1.5m
- Q. Why didn't sale go through.
- A. Bank didn't accept as it involved transfer of securities and additional security required and offered by Madam Tan which was not acceptable.
- Q. What was the state of the market in 1977.
- A. Upwards trend. 10
- Q. Did you know of sale by the Bank to U.R.A. in July 1977.
- A. I know nothing of the sale.
- Q. When did you come to know that the bank had sold the property.
- A. When I saw the U.R.A. Bill board affixed on the land.
- Q. Shortly before were there any negotiations by Madam Tan or you for the sale to a prospective buyer. 20
- A. After the Tay Negotiations Madam Tan received a Power of Attorney from H.L.R., my wife and I to arrange for the sale of the property, and I took no further part in negotiations - vide P23.
- Q. You have a company called Eastwood.
- A. Yes.
- Q. After sale to U.R.A. in July 1977 what happened to the property.
- A. Re-sold by tender by U.R.A. - 5-6 months later. 30
- Q. To whom was it sold and for how much.
- A. Pontiac Land Pte.Ltd. at about \$85 p.s.f. equivalent to about \$4-5 million.
- Q. Property appreciated in 6 months.
- A. Yes.
- Q. Before sale to U.R.A. did you have property valued.
- A. No.
- Q. Before sale to U.R.A. there was no offer of \$1.2m - did you know anything about this. 40
- A. I was not aware of this.

Q. Sale in July 1977 was without any security being provided to the Bank.

In the High Court

A. That is so.

Plaintiff's Evidence

By me: D.C.D'Cotta

No.6
Notes of Evidence
P.W.3 Edward Kong Kee Yee
Cross-Examination

13th March 1980

(continued)

10 RXN: Judgment was obtained by Plaintiffs against H.L.R.Ltd. I did business as real estate broker through Credit Investment; Madam Tan is a very good business woman; she had her own company - Wah Leng Realty - in Cecil Street. I spoke to Madam Tan most in Hokkien and Cantonese. Her business was successful. Madam Tan can't write a simple English letter. Originally I purchased No.10 for myself; my financial position was good. I wanted it for my own development. Matthew Lim and I were very close and he told me there was no problem to renew my overdraft; He stayed in my apartment for 8 months without paying any rent. I explained to Madam Tan why I wanted her as a guarantor. 2 months after purchase we were offered \$130 p.s.f. by Messrs. Wee Swee Teow & Co. If property was sold at the auction at the bid of \$1.25m my liability to-day would have been reduced by \$1m. I gave Power of Attorney to Madam Tan as the Bank were quite happy to deal with her.

Re-examination

Court adjs

30 Friday, 14th March 1980

Parties as before
P.W.2. Yew-Kwan Mei Sin on her former affirmation - Bank exercised their power of sale under the mortgage by giving appropriate notice to the mortgagor. Bank first attempted to sell the property at the end of 1976.

P.W.2 Yew-Kwan Mei Sin
Further Examination

14th March 1980

I produce letter to Richard Ellis -

In the High Court

Plaintiff's Evidence

No.6
P.W.2 Yew-Kwan Mei Sin
Further Examination
14th March 1980

(continued)

Further Cross-Examination

marked P26. At the end of March 1976, amount owing by How Lee Realty Ltd. was \$3,028,653-35. No further payment of interest except a payment in May of \$7,818-93 amounting owing then \$3,419,054-83.

Bank statements for 1975-1977 - marked P27A, B & C.

P.W.2. Yew-Kwan Mei Sin (recalled)

XXN

Q. Can you give us balance at July and August 1975. 10

A. July \$2,819,573-12.
August \$2,845,316-20.

Q. In Dec.1976 what was the balance.

A. \$3,288,129.98.

Q. Can you confirm that after date of guarantee signed by Madam Tan no advance was made by the Bank.

A. I confirm.

Jeyaretnam produces a letter - witness identified. marked D1 20

P.W.3. Edward Kong Kee Yee (recalled)
Further Cross-Examination

P.W.3 Edward Kong (recalled)

XXN(cont'd)

Q. Did you receive D1 on 8.4.74.

A. Yes on 10.4.74.

Q. Relates to extension of facilities.

A. Yes.

Q. Discussions with Mathew Lim was before 8.4.74.

A. Yes. 30

Q. He then asked for \$50,000/- commitment fee.

A. Yes.

Q. Commitment fee was paid in March 1974 - P7.

A. Yes.

Q. Discussion was then before 22.3.74.

A. Yes.

Q. Were you anxious about renewal.

A. After payment of commitment fee I was anxious to know if renewal would be granted.

	Q. You wrote to the Bank.	In the High Court
	A. Yes.	<u>Plaintiff's Evidence</u>
	Q. Do you have a copy.	No.6
	A. Not at the moment.	P.W.3 Edward Kong Kee Yee (recalled)
	Q. As a result of your letter you received D1.	Further Cross-Examination
	A. Yes.	14th March 1980
10	Q. Your letter was an exhibit in the Subordinate Courts.	(continued)
	A. Yes.	
	Q. Do you have the original of D1.	
	A. Also in the Subordinate Courts.	

Case

	Jeyaretnam: 1. Para.9 of Amended Defence dated 1.11.79 - Non est factum;
	2. Para.10 - no consideration, past consideration
	3. Para.12
20	Court adjourns to a date to be fixed

By me: D.C. D'Cotta

	Continuation of Suit No.1464/77	Defendants Evidence
	F. Mallal for the Plaintiffs	No.6
	J.B.Jeyaretnam for the Defendants	Notes of Evidence
	<u>Monday, 21st April 1980</u> <u>Coram: D'Cotta J</u>	D.W.1 Esther Leong Examination
	D.W.1 Esther Leong sworn/Mandarin	21st April 1980
30	47a Tiong Poh Road, Singapore, unemployed. I know the 4th Defendant Madam Tan. I was at one time working for her. I started to work for her around the end of 1971. I carry out my duties at 122A Cecil Street, her office. I worked for her till October 1978. I used to look after the office. I read and explain all letters to her; Letters that were sent to her office. I told her what the letters were all about. The letters were either in English or Chinese, most were in English. Madam Tan can't read English. I know this for a fact. She cannot read	
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In the High Court

Defendants
Evidence

No.6
Notes of
Evidence
D.W.1. Esther
Leong
Examination

21st April
1980
(continued)

Cross-
Examination

anything in English. She has not personally gone through any form of education - I know that. I have never seen her reading anything in English. When she needed my services I would be there to help her. When she needed a lawyer she would go and see him. She can't speak English - one or two words perhaps. She can't speak proper English.

By me: D.C. D'Cotta

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D.W.1 Esther Leong
XXN by Mallal

- Q. How do you know Madam Tan can't speak English.
A. I have been working for her for such a long period of time.
Q. You worked full time or part time.
A. Full time.
Q. Do you know if she understands English.
A. Perhaps she understands one or two words; she can't speak English.

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D.W.2 Tan
Lai Wah
Examination

21st April
1980

D.W.2 Madam Tan Lai Wah a/s Hokkien

Alias Tan Yew Hwa, 11 Institution Hill, S'pore 9. Married woman; 56 years of age. 4 years of education in Chong Hock Primary School at Telok Ayer Street. I only learnt ABC: I have forgotten about it; I never attended any English School. I stopped schooling when I was 14 years old. After I left school I never learnt English. I remained at home cooking. I cannot read English, not at all. When I speak English people will laugh at me. I can understand simple every day English, not the profound type. I am now a land broker; I am dealing in buying and selling land and property. I have been in this business for 17 to 18 years. I started in 1962 or 1963. I started on a small scale; when I gained more experience I expanded my business. Sometimes I buy properties in my own name and then sell them again. Sometimes I put them in my own name and sometimes in the name of the companies - I have two companies formed by me. One is known as Eng Wah and

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the other Hua Leng. Eng Wah has been in existence for 15-16 years and is still doing business. Before 1973 I had nothing to do with a company called How Lee Realty Co. There was a piece of land of 4 acres in Charlton Road. I was a director of How Lee Realty Co. I paid \$4000/- to buy this company. I cannot remember the year or date; it was in 1973. I cannot say when. I bought the company through a company known as Lim Sin and Thiam Beng, the former is my son-in-law. I bought this company. I wanted to buy a piece of land of 4 acres at Charlton Park and in order to buy this land I bought the company so that the land would be in the name of the company. Then there were 2 other directors, Lim Sin and Thiam Beng. In the course of my business I met one Mr. Edward Kong. He purchased 4 pieces of land from me. The first at Bukit Timah. I cannot remember when I met Mr. Kong. I had business transactions - buying and selling land with him. I had a transaction with him in 1973. It was in respect of a piece of land in Tanglin at Tomlinson Road. I recommended him to buy this piece of land. I brought him to see the Vendor. I merely acted as a broker. I got my commission. Subsequently because of the shortage of funds Edward Kong asked me to come in and have a share of 25% in the purchase. There was a shortage of funds to pay the interest. I had nothing to do with the question regarding purchase of the land by P.W.3; I do not know how he paid for the property. At this time I sold How Lee Realty Ltd. to Edward Kong for \$5,000-00. I resigned as director with Lim Sin & Thiam Beng. P.W.3 and his wife became directors. From the time I resigned I had nothing to do with the company. Having bought this land P.W.3 came to borrow money from me; this was a few months after purchase. P.W.3 said he had lost in share speculation. He told me he needed money to pay for the interest in respect of this piece of land at Tomlinson Road. I was prepared to lend him the money; He came on several occasions. He said he lost a few million dollars in share speculation. He offered me a 25% share in respect of this piece of land at Tomlinson Road. Later I was given another 25% making it 50%. The offer of 50% share was given by P.W.3 but it was not in writing; it was

In the High Court

Defendants Evidence

No.6

Notes of Evidence
D.W.2 Tan
Lai Wah
Examination

21st April
1980

(continued)

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In the High Court

Defendants Evidence

No.6

Notes of Evidence

D.W.2 Tan Lai Wah

Examination

21st April 1980

(continued)

in 1973. This was a verbal agreement. In all I advanced between \$270 - \$280,000/-. I asked him for something in writing but he did not give me. The signature of P2 (guarantee) is mine; P.W.3 told me that Matthew Lim from the Bank suggested that I become his (P.W.3's) guarantor. This was 10 days before P2 was signed. He told me that Matthew Lim had said I was a property owner and would be able to provide him the money to pay for the interest of Tomlinson Road. P.W.3 said I should be guarantor for this piece of land. P.W.3 told me I had 50% share in this land and I myself was so interested in it. I did not say anything; subsequently he came with P2 for me to sign. He never told me about renewing an overdraft facilities offered to How Lee Realty Ltd. P.W.3 came to my office to see me. It was at 3 p.m. I cannot say if D.W.1 was in the same room as me. I have a room to myself. P.W.3 came into the room and he said he just had lunch with Matthew Lim and Thiam Beng. P.W.3 told me that Matthew Lim wanted me to sign P2 in respect of my 50% interest in this piece of land at Tomlinson Road. He did not say what the document was. He said to guarantee the land at Tomlinson Road. Yes, I was happy to sign. I was very interested in this piece of land. P.W.3 had to give me something in respect of my 50% interest in the land. I was happy to sign P2. I regarded P2 as proof that I was holding 50% interest in the land. P.W.3 did not explain the document to me. He stood there; he was hardly there for 10 minutes. He was in a hurry and asked me to sign the document quickly. He left immediately after I had signed the document. He showed me where to sign. Nothing else was said between P.W.3 and I; I considered P2 as proof that I held 50% interest in Tomlinson Road. There are so many types of guarantees; we must know what it is about; if we accept it we can act as guarantor. As far as I am concerned I thought that P2 was a guarantee that I had 50% interest in Tomlinson Road. If my share is 50% I should be paying 50% in respect of this piece of land being the price of the land. I am quite happy to accept this. This piece of land is at Orchard Road, it is in town; in my view hotels can be built on this piece of land and I consulted an architect. Architects have told me hotels

can be built on this land. I know the price at which it was sold to P.W.3; In 1974 the price had appreciated by 20 odd %; I was happy to sign; I did not know I was guaranteeing an unlimited amount; if I had known that I would not have signed. P.W.3 took P2 from me after signing; I never asked him to get my signature witnessed by Lim Sin. Later that afternoon Lim Sin telephoned me; he said, "Mummy you happy to sign this guarantee in respect of the land at Tomlinson Road" I said Yes I am happy. I have 50% share in the land. It was after this call that I knew P.W.3 had gone to Lim Sin's office. Nothing else was said. Lim Sin put the receiver down. I was in court when Lim Sin gave evidence; He never asked me whether I understood everything inside the guarantee. I never told Lim Sin that P.W.3 had explained everything to me and all I wanted was for him to witness my signature. Lim Sin never told me that as a lawyer he would persuade me to go to his office; He never said if I went he would explain the contents to me. He never said that a bank guarantee was a very serious document. I never told him that I was totally clear and that I did not require further explanation. I never told him that I required him to witness my signature. I never requested him to witness my signature. I have told the court all that passed between me and Lim Sin. Plaintiffs never wrote to me for being a guarantor for an account with them. No one from the Bank spoke to me. I have met Matthew Lim in Lim Sin's office but at the time I did not know he was from the Bank. I felt Kian Guan would either want to buy 10 Tomlinson Road or would be interested in merging their land into our land for development. Initially P.W.3 was making a lot of money in shares and had no intention of selling the land, later he lost heavily and thought of selling the land and inviting others to have a share in the land with him.

It did not occur to me to sell the land. I went to a temple at Thomson Road and there I met Chris Chua and asked him if he was interested in the land. He is the Chairman of Malayan Credit. He told me he did not want to come into partnership with me but was prepared to buy the land

In the High Court

Defendants Evidence

No.6

Notes of Evidence
D.W.2 Tan
Lai Wah
Examination

21st April
1980

(continued)

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In the High Court

Defendants Evidence

No.6
Notes of Evidence
D.W.2 Tan
Lai Wah
Examination

21st April
1980

(continued)

from me. I asked for the price of \$5 million which was not expensive. He told me his company had an account with the Bank of Chicago. He told me he would speak to Matthew Lim about buying the land from us. He also told me to buy a small area from Kian Guan and merge it in mine. I heard no news from him. This was in 1974. P.W.3 then got in touch with Malayan Credit and they indicated their interest in the land. This attempt did not succeed. Matthew Lim told Malayan Credit not to offer such a high price for the land. I learned this from the wife of the Chairman, Chris Chua of Malayan Credit and the office staff. There is no truth that P.W.3 was demanding a high price. In my second attempt I tried to sell the property to Tay Kay Yeow of Indonesia. He told me he intended to buy the land with Kian Guan. He was prepared to pay between \$3 - \$3.2 million. I partly remember P19; In 1976 P.W.3, Tay Kay Yeow and I went to see one Amik at the Bank; I learned from P.W.3 that the Bank was willing to sell the property for \$4 million. No truth in what Matthew Lim said that I had asked the Bank to sell for \$4 million. Matthew Lim was no longer in the Bank; Victor Thio took over from him. P.W.3 and I agreed to sell for \$3 million; P.W.3 was broke; this would have wiped out the debt due to the Bank. Fault lies with the Bank that property was not sold. Following this property market from bad became worse. Went to see Amik who asked me to give P.W.3 \$100,000/- to leave the partnership and suggested that I should mortgage the land to the Bank to merge with Kian Guan so that Hotel could be built on the land. The outstanding amount owed to the Bank was to be borne by me. Tay came out with \$1,000/- and an account was opened in my name. Nothing come out of this; I was prepared to do my part. It was suggested I should take over the property from How Lee; \$100,000/- was to be given to P.W.3 and a Power of Attorney was made in my favour. This was in 1976. I didn't know property was put up for sale in 1976. I was not notified by the Bank. I came to know after the auction. In 1977 I learned property was not sold at the auction. Bank cancelled sale price offered too low. I continued to try and sell the property.

In mid-1977 property market became alive again; I went to Malayan Credit and saw Chris Chua. I asked him if he was still interested in the property. He said he was. The price discussed was \$3.8 million; He was still interested and suggested a meeting be held in his office. C.P.Chia was interested on behalf of a purchaser in Hong Kong; I went to see Amik in the Bank and told him I had two persons interested in the property. I told him land could be sold for \$3.8 million. He never told me he was planning to sell the land. He did not tell me he was prepared to sell to U.R.A. I told him to hold on as property price was going up; I brought C.P.Chia to inspect the land. 10 days after I had seen Amik, C.P. Chia had already bought the land in front of mine and was desirous of purchasing mine to merge it. At the site he was the U.R.A. board; he was annoyed. This was the first indication that land had been sold to U.R.A. I did not know anything about the sale till then. I went to see Amik; I saw an elderly man. I showed my temper and complained why I was not informed of the sale; He said Government take; Government take. I was very angry; I cried; I told them to hold on to the property. They did not give me a chance. I had a Power of Attorney; I was kept in the dark. A summons was served on my lawyers in September 1977. My lawyers were then Suppiah & Co. They told me I had a defence and I instructed them to act for me. I went to the Bank and try to raise money for Ho Kah Cheng. I never pleaded with them that I was responsible under the guarantee and not to make me a bankrupt. I never knew that the Bank had got judgment against How Lee, P.W.3 and Mrs. Kong. I made no representations on behalf of How Lee Realty Co.

In the High Court

Defendants Evidence

No.6

Notes of Evidence
D.W.2 Tan
Lai Wah
Examination

21st April
1980

(continued)

By me: D.C.D'Cotta

Tuesday, 22nd April 1980

Parties as before

D.W.2 on her former affirmation :-

XXN by Mallal :-

Q. What did you mean when you say you expanded your business.

Cross-
Examination

22nd April
1980

In the High Court

Defendants Evidence

No.6
Notes of Evidence
D.W.2 Tan
Lai Wah
Cross-Examination
22nd April
1980

(continued)

- A. I came to know more people, a few Chinese banks and Finance companies even the D.B.S. supported me. I am not owing any money to any bank or finance companies.
- Q. You became a prominent figure in business and obtained the assistance of many banks to support your business.
- A. Yes.
- Q. What did you do to expand your business.
- A. Gradually I bought small pieces of land in my own name and the bigger pieces were resold to others. 10
- Q. Were your two companies already in existence.
- A. Eng Wah was originally dealing in T.V. sets, the business failed and it was converted into property business; With regard to Wah Ling I had bought a piece of land which could be used for factory purposes and this piece of land was mortgaged to D.B.S. for overdraft facilities amounting to \$600,000/-. 20
- Q. What is Eng Wah, a sole proprietorship or a partnership.
- A. Partnership, my husband and I. It was a limited company; paid up capital was \$200,000/-.
- Q. What is the full name of the company.
- A. Witness tenders a business card - marked D2
- Q. What is Progress Realty? 30
- A. That is Eng Wah.
- Q. When was Progress Realty formed.
- A. 1963.
- Q. Who were the directors.
- A. My husband and I were directors and shareholders.
- Q. When was Wah Ling formed.
- A. I cannot remember.
- Q. You are acquainted with requirements for obtaining loans. 40
- A. The lawyers handled the matters.
- Q. Do you have other companies.
- A. I did have a 30% share in a company known as Hup Hong Enterprise with reference to a piece of land. That was a few years ago.

- Then I had a 50% share with P.W.3.
- Q. Were you the one who made decision re purchase and sale of property.
- A. Yes.
- Q. Are these two companies still in existence?
- A. Yes, I have discharged the mortgage re Wah Ling. Eng Wah is still active.
- Q. Any properties registered in the name of Progress Realty.
- 10 A. No.
- Q. When your company purchased property were the loans obtained from Banks.
- A. Yes.
- Q. Were they substantial?
- A. Hong Leong has given us overdraft facilities up to \$1 million and D.B.S. \$600,000/-.
- Q. Have you ever executed any guarantee in respect of your two companies.
- 20 A. Yes on 3 occasions.
- Q. What are they.
- A. One with A.C.B. I stood guarantee for Ng Liang Pang for \$150,000/- in respect of a piece of land; then I stood guarantee for Ang Teng San for \$300,000/- and the third \$250,000/- for Tan Chee Kow; The Banks called me up to explain it to me; The loans have been fully discharged.
- 30 Q. Do you record particulars of these various transactions.
- A. For purposes of Income Tax Returns.
- Q. Why didn't you proceed with the Charlton Park project.
- A. The land was sold.
- Q. P.W.3 approached you and asked you if you were prepared to stand surety in respect of Tomlinson Road purchased by How Lee Realty.
- A. Yes.
- 40 Q. Did you agree.
- A. Yes I did not object.
- Q. P.W.3 brought P2 for you to execute.
- A. Yes, I did not know if it was unlimited.
- Q. What did you think it was.

In the High Court

Defendants Evidence

No.6
Notes of Evidence
D.W.2 Tan Lai Wah
Cross-Examination

22nd April 1980

(continued)

In the High Court

Defendants Evidence

No.6
Notes of Evidence
D.W.2 Tan
Lai Wah
Cross-Examination

22nd April
1980

(continued)

- A. The Bank did not explain it to me.
- Q. With your experience in land deals why did you sign without knowing what the guarantee was about.
- A. P.W.3 kept telling me sign it quickly; I am in a hurry.
- Q. Why didn't you ask D.W.1 to help you and explain it to you.
- A. P.W.3 was standing there.
- Q. You said he was there for 10 minutes. 10
- A. I didn't know he had gone to Lim Sin's office.
- Q. Mr. Lim Sin is your son-in-law.
- A. Yes.
- Q. He took the trouble to telephone to you.
- A. Yes he spoke to me.
- Q. Lim Sin being your lawyer and son-in-law why didn't you ask him to explain to you since you were not sure.
- A. He asked me if I was happy to sign the guarantee; I said Yes because I was getting a 50% share in the land after that he put down the receiver. 20
- Q. Why didn't you ask him to explain the terms of the guarantee to you.
- A. He asked me if I was happy to sign and I said Yes. I hold the view that the land had a bright future.
- Q. You had a copy of the guarantee with you.
- A. Yes, D.W.1 kept them. I have no time for them. 30
- Q. Can you explain what you mean when you say you were happy to sign the guarantee as you had a 50% share in the land.
- A. P.W.3 had borrowed money from me and initially offered me 25% interest in the land; it was subsequently increased to 50%. I asked P.W.3 to give it to me in writing confirming my 50% share in the land. He promises to do so but did nothing about it. When I executed P2 I thought it was confirmation of the fact that he had given me 50% of interest in the land. 40
- Q. According to P3 you were appointed a director of How Lee Realty Ltd on 7.6.76.
- A. Yes.

	Q.	You consented to be a director.	In the High Court
	A.	Yes.	<u>Court</u>
	Q.	Were you familiar with assets and liabilities of the company as a director.	Defendants Evidence
	A.	I didn't pay much attention to this; I only know land was mortgaged to the Bank. I do not know details.	No.6 Notes of Evidence D.W.2 Tan Lai Wah
	Q.	You played an active role in trying to dispose of the property.	Cross-Examination
10	A.	Yes I was concerned with the recovery of my capital.	22nd April 1980
	Q.	P22 is read to the witness - You wrote P22 to Plaintiffs:	(continued)
	A.	Yes.	
	Q.	Why were you so readily to commit yourself financially to rescue How Lee.	
	A.	I wanted this piece of land because to me it had a bright future.	
	Q.	What was your interest in this.	
20	A.	I had a 50% interest in the land; my money had been dumped in this land.	
	Q.	Why was P22 written to the Bank with such a proposal.	
	A.	Mr. Amik and Mr. Tay were of the opinion it should be done this way; I knew How Lee was owing the bank money.	
	Q.	Did you know P.W.3 and his wife were contingently liable on the guarantee to the Bank.	
30	A.	No.	
	Q.	Were you aware you were liable.	
	A.	I am not liable to the Bank; P.W.3 is, the money was taken by him.	
	Q.	Are you aware of the reply to P22?	
	A.	Yes roughly, although I don't quite remember.	
	Q.	Do you recollect ABS.	
	A.	I have not received it.	
	Q.	Do you remember P25.	
	A.	No.	
40	Q.	Were Francis Lee your Solicitors.	
	A.	I have been to their office but I cannot remember P25.	
	Q.	Were you trying to sell to Asian Kingship.	

In the High Court

Defendants Evidence

No.6
Notes of Evidence
D.W.2 Tan Lai Wah
Cross-Examination
22nd April 1980

(continued)

- A. Yes, I remember a meeting and a Power of Attorney being made in my favour.
- Q. I refer to para.3.
- A. This did not materialise.
- Q. P25 proposes that if Plaintiffs accept your proposal, P.W.3 and his wife and you will be released from the obligations under the How Lee guarantee.
- A. I had confidence in selling Tomlinson Road, if proposal was accepted I would be able to sell the land, resolve everything and save my money. 10
- Q. Did you receive these letters. (Witness is shown AB9 and 10)
- A. I can't remember.
- Q. Put: You have admitted receiving them.
- A. I can't remember.
- Q. Upon receipt of these letters why did you not take steps to dispute your liability.
- A. I showed the letters to P.W.3; he did not give any indication, finally he brought me to Suppiah & Co. 20
- Q. What did they do.
- A. Suppiah told me I was not liable.
- Q. And then.
- A. This outstanding debt had nothing to do with me.
- Q. Put: Your affidavit of 14.11.77 para.6 states you admit signing the guarantee and advances were made after you signed. Is this correct. 30
- A. I can't remember.
- Q. Put: By that affidavit you were fully aware of the terms of the guarantee you signed.
- A. I can't remember. I am a sick woman, I have been going in and out of hospital.
- Q. Put: Your evidence that the document you signed was for purpose of evidencing a 50% share in the Tomlinson Road property is not true. 40
- A. P.W.3 asked me to sign the guarantee and I was getting a 50% share in the land, so I signed; there was no mention of a unlimited sum.

	Q.	How long have you engaged Lim Sin and Thiam Beng to attend to your legal affairs.	In the High Court
	A.	I can't remember; my matters were dealt with by them.	Defendants Evidence
	Q.	Who in the firm did you deal with.	No.6
	A.	Either Lim Sin or Thiam Beng.	Notes of Evidence
	Q.	Have you been associated with them for a long time.	D.W.2 Tan Lai Wah
10	A.	Even since he was in practice. I have recommended many clients to Lim Sin.	Cross-Examination
	Q.	What is your relationship with him.	22nd April 1980
	A.	Not very good, subsequently I had most of my matters dealt with by another firm.	(continued)
	Q.	Lim Sin in evidence said he was prepared to give you advice on the guarantee, do you doubt that.	
	A.	I did not hear all this, he has come to Court to say it, he is testifying for the bank.	
20	Q.	Was he, when he spoke to you, acting for you.	
	A.	At this point of time he was not dealing with some of my matters.	
	Q.	He was dealing with this matter.	
	A.	I can't remember.	
	Q.	Your visit to the Bank in November 1977 was P.W.2 present.	
	A.	She was not there. Mr. Amik and another man were present.	
30	Q.	How did you communicate with these two without P.W.2.	
	A.	The gentleman with Mr. Amik was a Chinese.	
	Q.	Put: There was no Chinese gentleman present, the other gentleman was a Mr. Glass.	
	A.	There was a Chinese gentleman.	
	Q.	Put: P.W.2 was present and interpreted for you.	
	A.	I deny that, not in connection with this matter, with other matters yes.	
40	RXN:	Mr. Suppiah did not give me the benefit of his opinion. He told me I had a defence. He said he would prepare affidavits for me based on his advice. I was then asked to swear those affidavits and I did so.	Re-examination

In the High Court

Defendants Evidence

No.6 Notes of Evidence D.W.2 Tan Lai Wah Re-Examination

22nd April 1980

(continued)

P.W.3 handed a copy of the guarantee to Mr. Suppiah. I can't remember if I saw P2 after 18.4.74.

By me: D.C. D'Cotta

Wednesday, 23rd April 1980

23rd April 1980

Parties as before.

D.W.2 on her former affirmation:

If I knew the Bank were going to sell for \$1.5 million I would have raised the money and purchased it. I had put more than \$200,000/- into the land. I was promised some benefit by Asian Kingship. Tay was closely associated with Kian Guan. He was a college mate of my husband. I entrusted my affairs to my solicitors. P.W.3 came to my office and told me that Matthew Lim wanted me to be a guarantor for the Tomlinson Road property. I had a 50% interest. I told him I had confidence in this property. No mention was made of How Lee having an account with the Bank and my being asked to guarantee all advances made to How Lee. I was satisfied after P.W.3 told me that this was a guarantee for the Tomlinson Road property and that I had a 50% share in it. I was quite happy to sign it. When P.W.1 rang me up there was no doubt in my mind.

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By me: D.C. D'Cotta

Case for the 4th Defendant Madam Tan. Court request counsel to tender written submissions by 23.5.80 with a further two weeks extension for any replies if necessary.

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Court adjourns.

By me: D.C. D'Cotta

No. 7

In the High
Court

GROUNDS OF JUDGMENT

No.7
Grounds of
Judgment

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE
Suit No. 1464 of 1977

3rd July 1980

Between

The First National Bank of
Chicago

Plaintiffs

And

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1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi
Yook (m.w.)
4. Tan Lai Wah

Defendants

F. Mallal for the Plaintiffs
J.B.Jeyaretnam for the 4th Defendant

Coram: D'Cotta J

J U D G M E N T

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The Plaintiffs, the First National Bank of Chicago (hereinafter called "the Bank") on the 18th April 1973 granted overdraft facilities amounting to \$2,520,198-91 to How Lee Pte.Ltd. (hereinafter called "the 1st Defendant") which said facilities were secured by a mortgage of the land and property known as No.10 Tomlinson Road (hereinafter called "the said property"). The overdraft facilities accorded to the 1st Defendant were guaranteed by the 2nd and 3rd Defendants. By a Deed of Guarantee dated 18th April 1974 (hereinafter called "the Guarantee") and made between the Bank and the 4th Defendant (hereinafter called "Madam Tan") these overdraft facilities were extended for a further period of one year. Summary judgment was obtained by the Bank against the 1st, 2nd and 3rd Defendants but leave to defend was granted to Madam Tan. The Bank now claims the sum of \$2,520,198-91 together with interest thereon against Madam Tan on the Guarantee.

The undisputed facts of the case are as follows :-

In the High Court

No.7
Grounds of Judgment
3rd July 1980
(continued)

The Bank advanced \$2,500,000/- to the 1st Defendant for the purchase of the said property by way of overdraft facilities which was secured by a mortgage of the said property. The loan facilities were utilised to the full. Edward Kong (a director of the 1st Defendant company) paid the monthly interest but whenever he was unable to do so he turned to Madam Tan for assistance. When the time came for renewal of the overdraft i.e. around April 1974 the Bank were agreeable to extend the overdraft facilities for a further period of one year but suggested that Madam Tan be included as a 3rd guarantor; Edward Kong approached Madam Tan who agreed to do so as he offered her a 50% share in the said property. The Guarantee was subsequently signed by Madam Tan and witnessed by Mr. Lim Sin, an advocate and solicitor. Thereafter interest payments continued to be paid until about the end of 1974 when Edward Kong was in difficulties as regards payments of monthly interest at which time the Bank became anxious about the repayment of the entire loan. Efforts were made by the Bank, Edward Kong and Madam Tan to sell the said property but they proved unsuccessful. The property was eventually sold to the Urban Redevelopment Authority for \$1,024,955/-.

Before proceeding to deal with the evidence, it may be convenient at this stage to introduce to the scene Mr. Matthew Lim of whom frequent mention is made in the course of the proceedings and who although not a witness nevertheless played a most important role in that he was at the relevant period the Manager of the Bank and the person whom Edward Kong dealt with in regard to overdraft facilities, payment of interest and sales generally.

Learned Counsel for the defence submitted that there is only one material fact in dispute and this revolves around what was said by Mr. Lim Sin (P.W.1) to Madam Tan when he telephoned her on the afternoon of the 18th April 1974 before he attested her signature to the Guarantee. In this connection I refer to the evidence of Mr. Lim Sin :-

"Some time in 1974 Mr. Kong Kee Yee (Edward Kong) came to my office. He is known to me. He showed me a copy of AB2 and said it had been signed by Madam Tan Lai Wah who is my mother-in-law and requested me to sign as her witness. I therefore telephoned Madam Tan to ask her to confirm that she had signed the guarantee and further asked her

10 whether she understood everything inside
the guarantee. She said that Kong Kee
Yee had already explained to her and that
he had already signed a similar guarantee
and all she wanted me to do was to witness
her signature. I told her that as a
lawyer I would persuade her to come to my
office so that I could explain to her the
contents or I could even call on her at
her office to explain to her and a bank
guarantee is a very serious document. Her
reply was she was totally clear and did
not require further explanation. Her only
requirement was for me to witness her
signature. I then signed the guarantee
as her witness. Mr. Edward Kong is
personally known to me. Madam Tan told
me over the telephone that Edward Kong
20 had also signed. My firm was acting for
the 1st Defendant but my partner attended
to their matters. My firm acted for the
1st Defendant in connection with a piece
of land at Tomlinson Road. I handed the
guarantee which I witnessed to Mr. Edward
Kong. Mr. Kong was before me when I
spoke to Madam Tan on the telephone."

30 Mr. Lim Sin was cross-examined on his telephone
conversation with Madam Tan and below is a
verbatim report of the question put to him and
his replies thereto :-

"Q. What did you tell Madam Tan.

40 A. I told her in Hokkien (translated) -
"Edward Kong has handed me a bank
guarantee executed by you and has
asked me to sign as witness. This
document is a very important document
and it is preferable if you call at
my office for me to explain to you.
She said Edward Kong has already
explained the contents to me and he
has also signed a bank guarantee, so
all that is necessary is for you to
witness my signature. I then told
her: 'If it is because you are busy I
can even call at your office to explain
it to you.' She said Edward Kong had
explained it to her and she knew what
it was about, all she wanted me to do
was to witness her signature.

50 Q. So you then signed.

A. Yes.

Q. Nothing further was discussed.

In the High
Court

No.7
Grounds of
Judgment
3rd July 1980
(continued)

- A. I don't recall.
- Q. You told her a bank guarantee was a very serious document.
- A. Yes.
- Q. Edward Kong was with you.
- A. Yes in front of me.
- Q. He understood all you said to Madam Tan.
- A. I believe so.
- Q. Did it occur to you it would have been better for her signature to have been witnessed by someone who is not the bank's solicitors. 10
- A. I don't think so; if it occurs again I will do it again.
- Q. My instructions are this telephone conversation was sweet and short.
- A. Whatever it is, it is what I told you.
- Q. My instructions are you said to her in Hokkien - 'Did Edward Kong bring you a guarantee to sign and were you happy to sign' 20
- A. That is not so.
- Q. She said in reply 'That is so I have already signed'.
- A. Partly so because she told me and she had already signed it.
- Q. My instructions are that was all that passed in that telephone conversation between you and her.
- A. That is not true. 30
- Q. My instructions are at no time did you tell her that you would explain to her.
- A. That is not true. "

Edward Kong, witness for the Bank, in evidence related how he came to purchase the said property and that for the first year he paid interest regularly but if and when he was short of money he would borrow from Madam Tan. Some time around April 1974, the Bank informed him that they were prepared to extend the overdraft facilities provided he paid 2% commitment fees as well as provide additional security or guarantor acceptable to the Bank. The Bank informed him they were prepared to accept Madam Tan as guarantor. Edward Kong went on to say that he approached Madam Tan with a request that 40

she be his guarantor for extension of another year's facilities to be given by the Bank. To this Madam Tan replied that the land was good value at \$130 p.s.f. and agreed to be guarantor. On the Bank agreeing to accept Madam Tan they gave him a form. He gave this form to Madam Tan who signed it, whereupon he took it to Messrs. Lim Sin & Thiam Beng. I now append Edward Kong's evidence verbatim on his attendance at the office of Messrs. Lim Sin and Thiam Beng :-

In the High Court

No.7
Grounds of Judgment
3rd July 1980
(continued)

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"I took it to the lawyers for either one of them to witness Madam Tan's signature. I could not find Thiam Beng but Lim Sin was there. I gave him the form and told him Madam Tan had signed it and the Bank wanted me to get Lim Sin or Thiam Beng to witness Madam Tan's signature. Lim Sin took the form and telephoned to Madam Tan in my presence. He spoke to Madam Tan in Hokkien. I understood what was said when Lim Sin spoke to Madam Tan. He said in Hokkien - 'Mummy, Edward Kong is in front of me with a bank guarantee form on the land 10 Tomlinson Road. Are you happy with the form you signed.' I did not hear what Madam Tan had to tell him. Lim Sin put down the phone and said to me - 'She is happy what she signed, I will sign as a witness'. AB2 and 3 is the guarantee. I went to the Plaintiffs and gave the form to the manager, Mr. Lim. Plaintiffs agreed to renew the overdraft facilities. "

On being cross-examined on his interview with Mr. Lim Sin regard the signing of the Guarantee, the following are the replies given by Edward Kong to the questions put to him :-

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"Q. What did you tell Madam Tan.

A. I told her in Hokkien that this is the guarantee form on the Tomlinson Road property; I reminded her about the Bank requiring a guarantor; she just signed the guarantee.

Q. Did you tell her you had just come from lunch with Mr. Lim and Thiam Beng.

A. Yes.

Q. Did you tell her Mr. Lim wanted her to sign the form which was a guarantee on the Tomlinson Road property.

A. Yes.

In the High Court

No.7
Grounds of
Judgment
3rd July 1980
(continued)

- Q. Did she ask any questions.
A. No.
Q. Did you tell her you were in a hurry.
A. I might have told her as soon as you sign this I must rush to the lawyer to sign it.
Q. My instructions are you said, come on, come on, this is the Tomlinson Road guarantee you just sign.
A. I am not sure what I said, I might have used it; I might not. 10
Q. She signed all 3 copies.
A. Yes.
Q. When you signed it did you read the form.
A. No.
Q. Did you explain to Madam Tan the contents of the document.
A. No I did not explain.
Q. Did she try to read it. 20
A. No.
Q. Did she ask for it to be read to her.
A. No she did not.
Q. Did you tell her it was an unlimited guarantee.
A. No I didn't.
Q. You knew what an unlimited guarantee is.
A. At that time I didn't; now I am being sued I know.
Q. That's all that you said. 30
A. Yes.
Q. Then you proceeded with the 3 forms to the office of Lim Sin & Thiam Beng.
A. Yes.
Q. What did you tell Lim Sin.
A. I told him Madam Tan had signed the guarantee form and Mr. Lim wanted either you or Thiam Beng to witness Madam Tan's signature. I showed him P2A. 40
Q. You didn't tell him M. Lim requested him to witness it.
A. No I gave him P2A.

- Q. Then what did he do.
- A. He looked at the form and telephoned Madam Tan.
- Q. Where were you.
- A. Sitting right in front of him.
- Q. Apart from what you told us earlier did Lim Sin say anything else to Madam Tan.
- A. No.
- Q. Are you sure.
- A. I am.
- Q. Lim Sin said in evidence to Madam Tan that the document was important and she could call at his office for him to explain that to her.
- A. I did not hear that.
- Q. You are sure.
- A. Yes.
- Q. Did he say "if you are busy I can call at your office to explain it to you."
- A. I didn't hear that.
- Q. You are sure.
- A. Yes the whole thing took place very fast.
- Q. Did you hear him say he was a lawyer and would explain it to her if she came to his office.
- A. I didn't hear that. "

30 According to Edward Kong, all Mr. Lim Sin said, and he was sitting in front of him, was "Mummy, Edward Kong is in front of me with a bank guarantee form on the land 10 Tomlinson Road. Are you happy with the form you signed." Edward Kong also stated that he was sure that that was all the conversation that passed between Madam Tan and Mr. Lim Sin. Still under cross-examination he said he never heard Mr. Lim Sin state that the document was an important document and that he was prepared to call at her office to explain the contents to her. To say the least Madam Tan's
40 evidence supports or corroborates Edward Kong. Madam Tan stated quite emphatically that Mr. Lim Sin never offered to go to her office to explain the Guarantee to her, neither did he tell her that a Bank guarantee was a serious document. Edward Kong also said he was sure that words similar to these never passed between Mr. Lim Sin

In the High Court

No.7
Grounds of Judgment

3rd July 1980

(continued)

and Madam Tan. It would appear that Edward Kong's version of the conversation that took place between Mr. Lim Sin and Madam Tan over the telephone is the correct version. In the circumstances I reject the version of Mr. Lim Sin.

The defence raised two main issues as follows :-

- (1) non est factum;
- (2) that there was no consideration moving from the bank to her for the guarantee she is alleged to have signed as the document upon which she is being sued is not one under seal. 10

Dealing with the first defence i.e. non est factum, the burden of establishing it which incidentally is a heavy burden, lies on the person seeking to avail himself of it. This statement applies generally to persons of full age and capacity, but Lord Pearson in his judgment in Saunders v Anglia Building Society, 1970 3 A.E.R. page 979 had this to say :- 20

" In my opinion, the plea of non est factum ought to be available in a proper case for the relief of a person who for permanent or temporary reasons (no limited to blindness or illiteracy) is not capable of both reading and sufficiently understanding the deed or other document to be signed. By sufficiently understanding I mean understanding at least to the point of detecting a fundamental difference between the actual document and the document as the signer had believed it to be." 30

"Normally, a blind or illiterate person must have had the deed read over or fully explained to him before execution" - see para. 1366 Halsbury's Laws, 4th Edition Vol.12.

This plea is established if it is shown that : 40

- (a) the document signed was fundamentally or essentially different in substance or in kind from what the signer believed it to be (a mistake about the amount of the liability involved may make such a difference); and

(b) the signer signed it with the care to be expected of a normal person of prudence.

In the High Court

No.7

Grounds of Judgment

3rd July 1980

(continued)

10 The question that has to be asked and answered is whether or not on all the circumstances leading up to its execution, the Guarantee was so "fundamentally" or "essentially" or "basically" or "radically" or "entirely" different from the document Madam Tan believed it to be. The circumstances must be the surrounding circumstances at the time of the execution of the document and no regard must be paid to the circumstances to be found years later.

20 In order to answer this question Madam Tan's own evidence must be considered. Madam Tan in her evidence stated that she stopped schooling at the age of 14. She cannot read nor can she write English. She had been a land broker for 17-18 years since 1962. During this time she formed two companies. In the course of her business she met Edward Kong and advised him to purchase the said property. She advanced Edward Kong money whenever he could not pay the interest on the overdraft for which he offered her a 25% interest in the said property. In all she advanced about \$270,000/- to \$280,000/- to Edward Kong. She asked him to acknowledge this in writing but he did not do so. Before the said guarantee was signed Madam Tan went on to say that Edward Kong approached her and told her that Matthew Lim had said that since she was a property broker she was in a position to provide him (Edward Kong) the money to pay for the interest of Tomlinson Road. Edward Kong said that the Bank suggested that she be the guarantor and told her he would give her a 50% share in the said property. Edward Kong brought to her the said Guarantee for her to sign and told her that Matthew Lim had wanted her to sign the 40 Guarantee as this was in respect of her 50% interest in the land. She was happy to sign the Guarantee as she regarded it as proof of her 50% holding in the said property. Edward Kong, she said, did not explain the Guarantee to her. He was in a hurry and asked her to sign the document quickly. She did not know that the document which she signed was a guarantee for an unlimited amount otherwise she would never had signed it. She never ask Edward Kong to 50 ask Lim Sin to attest her signature. Later the same afternoon, after she had signed the Guarantee, she received a telephone call from Lim Sin who said "Mummy, are you happy to sign

In the High
Court

No.7
Grounds of
Judgment
3rd July 1980
(continued)

the Guarantee in respect of the land at Tomlinson Road". To this she replied that she was as she now had a 50% share in the land. She further went on to say that Lim Sin never asked her whether she understood everything inside the Guarantee, neither did she tell Lim Sin that Edward Kong had explain everything to her, nor did she asked Lim Sin to witness her signature. Furthermore, Lim Sin never told her that a bank guarantee was a very serious document, 10
or that if she went to his office he would explain the contents of the document to her. She also said that no one from the Bank spoke to her about the Guarantee.

Under cross-examination Madam Tan admitted that on 3 previous occasions in connection with other transactions she had executed bank guarantees but on each occasion the Bank had explained the contents of the documents to her. When asked what she meant when she said she was 20
happy to sign the Guarantee as she had a 50% share in the said property, she gave the following answer :-

"P.W.3 (Edward Kong) had borrowed money from me and initially offered me 25% interest in the land; it was subsequently increased to 50%. I asked P.W.3 to give it to me in writing confirming my 50% share in the land. He promised to do so but did nothing about it. When I executed P2 I thought it was 30
confirmation of the fact that he had given me 50% of interest in the land."

In this regard, looking at the circumstances prevailing at the time, I have no reason to disbelieve her.

It is pertinent to note taking the evidence of Mr. Lim Sin and Edward Kong, both of whom are the Bank's witnesses, as well as the evidence of P.W.2, Madam Yew-Kwan Mei Sin, the Bank Officer, it is not disputed that Madam Tan is 40
illiterate in the sense that she cannot read and write English although she admits she understands simple English.

Dealing with the evidence of Edward Kong who admitted under cross-examination that he had borrowed more than \$100,000/- from Madam Tan, he was asked about his approach to Madam Tan for the loan and what was said: these were his answers :-

"Q. Were there any discussions when you asked her for her help.

In the High Court

A. Yes.

No.7

Q. What were they.

Grounds of Judgment

A. I told her I was prepared to offer her a 50-50 basis in the land project in return for her helping out on payment of interest.

3rd July 1980

(continued)

Q. When did this discussion take place.

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A. Within the first year of 1973, originally she was to have 25%, another party 25% that other party failed, so gave Madam Tan 50%. "

He further admitted that it was at Matthew Lim's suggestion that he approached Madam Tan to be his guarantor. He also admitted he never explained the contents to her, nor did he tell her it was an unlimited guarantee. In fact he admitted that at the time he was himself unaware what an unlimited guarantee was; he had only discovered it on being sued. He agreed that he might have told Madam Tan to sign quickly as he was in a hurry. In fact Madam Tan said he tell her. Edward Kong's evidence did not differ from that of Madam Tan. On the contrary they corroborated each other. We now turn to Matthew Lim who Edward Kong in evidence described as a close friend who stayed in his apartment for 8 months without paying any rent. Matthew Lim's conduct throughout the loan transaction to say the least leaves much to be desired especially from one reputed to be the Manager. When Edward Kong desired an extension of another year for his overdraft facilities, he said there would be no difficulty about that provided Edward Kong paid a 2% commitment fee which worked out to about \$50,000/-. This amount was paid by Edward Kong. It transpired subsequently that the Bank did not charge a commitment fee so this amount was refunded to Edward Kong a year later. This incident gave rise to criminal proceedings which however are not relevant in this case. Again as Manager of the Bank it was his duty to explain the terms of the guarantee to Madam Tan as the Bank were going to accept her as a guarantor for an unlimited amount and expected to be reimbursed by her if the borrower failed to honour his obligations and being fully aware of her illiteracy in the English language he should have satisfied himself that she understood the contents of the said Guarantee before she signed the said document. This he did not do but left it to Edward Kong to obtain the signatures of both

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In the High Court

No.7
Grounds of Judgment

3rd July 1980
(continued)

Madam Tan and Mr. Lim Sin. Having obtained their signatures Edward Kong returned the Guarantee to Matthew Lim. The only inference that can be drawn is that the Bank appointed Edward Kong their agent for this transaction and they are therefore liable for the default of their agent; Edward Kong too was fully aware that Madam Tan could not read or write and he as agent for the Bank failed to read and explain the contents of the Guarantee to Madam Tan.

10

Now we come to Mr. Lim Sin. Under cross-examination he said he was not acting for anyone when he witnessed Madam Tan's signature. Matthew Lim when he gave the Guarantee to Edward Kong instructed him to get Lim Sin or Thiam Beng, his partner, to witness Madam Tan's signature. In Exhibit P2A, he was requested by the Bank to witness Madam Tan's signature. Be that as it may, Madam Tan was his mother-in-law; Mr. Lim Sin was fully aware of the fact that she was not educated in English. She had not much formal education as he put it and being an advocate and solicitor he should have exercised greater caution and care than could be expected of an ordinary man placed in similar circumstances by reading and explaining the document to her and satisfying himself that she understood it before he appended his signature to it. But what did he do. He asked Madam Tan over the telephone whether she was happy to sign a bank guarantee form pertaining to 10 Tomlinson Road. On receiving an affirmative reply he also signed it.

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It is pertinent to note that all three of them i.e. Matthew Lim, Edward Kong and Lim Sin did not read and explain the Guarantee to Madam Tan when they were fully aware that she was illiterate - a woman with little or no education. Furthermore she was totally unaware that the Guarantee was for an unlimited amount and so was Edward Kong for that matter.

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From the evidence I find that the Guarantee was not read and explained to Madam Tan before she executed it and the Bank and its agents have failed to discharge their burden. Furthermore Madam Tan was persuaded if not urged to sign the Guarantee quickly by Edward Kong. It was so represented to her in such a manner as to show that the document she was signing was to guarantee payment of interest on the said property and in return she was being given a 50% share on the land whereas in fact the document on which she is being sued however seeks to make her liable for all monies, without limit,

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advanced to the 1st Defendant on its account with the Bank right from the very beginning.

In the High
Court

10 In this context both Lord Reid and Viscount Dilhorne in the Saunders case supra were of the view that the document signed must be radically different in character from that which the signer thought it was. Lord Wilberforce's view, a document should be held void "when the transaction which the document purports to effect is essentially different in substance or in kind from the transaction intended".

No.7
Grounds of
Judgment
3rd July 1980
(continued)

20 From the evidence and the reasons set out above in my view there is a radical or fundamental difference from what Madam Tan believed she was signing and the document upon which she is being sued. The next question for consideration is whether Madam Tan in all the circumstances surrounding the transaction can be said to have acted reasonably and prudently in accepting the representation of Edward Kong and signing the document. It is not disputed that in 1973 whenever Edward Kong could not pay his interest in the overdraft facilities or when he wanted any advance he would borrow from Madam Tan who lent him the money without any acknowledgment despite her requests. In exchange he promised her a 25% share in the said property. At the end of 1973 or early 1974 when he was contemplating requesting a further extension of facilities he approached Madam Tan to be his guarantor, this time offering her 50% interest in the said property. Again she requested some form of acknowledgment. When Edward Kong approached her and asked her to sign the document as it referred to the guarantee of 10 Tomlinson Road she readily did so for by this time she had advanced more than \$200,000/- to Edward Kong and was anxious to see that the interest in the land which she had been promised 50% share was safe-guarded by some document. She had no reason whatever to doubt or suspect Edward Kong as he had promised her 50% share in the property. She was urged to sign quickly and did so believing him and relying on Edward Kong's promise to her.

50 Viscount Dilhorne in the Saunders case supra was of the view that the person signing must not have been careless when signing. The person "who signs the document must exercise reasonable care and what amounts to reasonable care will depend on the circumstances of the case and the nature of the document which it is

In the High Court

No.7
Grounds of
Judgment
3rd July 1980
(continued)

thought is being signed." Byles J. in Foster v. Mackinnon, 1869 L.R. 4 C.P. 704 said -

"at least if there be no negligence, the signature so obtained is of no force. And it is invalid, not merely on the ground of fraud, if fraud exists, but on the ground that the mind of the signer did not accompany the signature; in other words, that he never intended to sign, and therefore on contemplation of law never did sign, the contract to which his name is appended."

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For all these reasons and taking all the conditions prevailing at the time when Madam Tan signed the document, in my view she had in so signing acted reasonably and prudently in the circumstances. In my judgment Madam Tan has successfully established the plea of non est factum. In view of my finding, the necessity of considering the other defences raised by Madam Tan does not arise. The Plaintiffs claim is dismissed with costs.

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D.C. D'Cotta
J U D G E

3rd July 1980

wsc/cn

No. 8
FORMAL ORDER

In the High
Court

No.8
Formal Order

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

3rd July 1980

Suit No. 1464 of 1977

Between

The First National Bank of
Chicago

Plaintiffs

And

1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho
Hoi Yook (m.w.)
4. Tan Lai Wah

Defendants

ORDER OF COURT

BEFORE THE HONOURABLE MR. JUSTICE D'COTTA

IN OPEN COURT

THIS ACTION in Suit No.1464 of 1977
coming on for hearing on the 24th day of October
1979, 16th and 17th day of January 1980, 12th,
13th and 14th day of March 1980, 21st, 22nd and
23rd day of April 1980 AND UPON HEARING THE
EVIDENCE ADDUCED WHAT WAS ALLEGED BY Counsel
for the Plaintiffs and for the Fourth Defendant
IT WAS ORDERED that this action do stand over
for Judgment AND THE SAME coming on for
Judgment this day IT IS HEREBY ADJUDGED AND
ORDERED that the claim of the Plaintiffs against
the Fourth Defendant be dismissed with costs
to be taxed and paid by the Plaintiffs to the
Fourth Defendant.

Dated the 3rd day of July 1980

Sd: Ng Peng Hong
ASST. REGISTRAR

(Filed this 14th day of July, 1980)

In the Court
of Appeal

No.9
Notice of
Appeal

1st August
1980

No. 9

NOTICE OF APPEAL

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 63 OF 1980

Between

The First National Bank of Chicago

Appellants

And

Tan Lai Wah (f)

Respondent

In the Matter of Suit No.1464 of 1977

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Between

The First National Bank of Chicago

Plaintiffs

And

1. How Lee Realty Pte. Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi Yook (m.w.)
4. Tan Lai Wah (f)

Defendants

NOTICE OF APPEAL

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Take notice that the abovenamed Appellants being dissatisfied with the decision of the Honourable Mr. Justice D'Cotta given at Singapore on the 3rd day of July 1980 appeal to the Court of Appeal against the whole of the said decision.

Dated the 1st day of August 1980.

Sd: Rodyk & Davidson

Solicitors for the Appellants

No. 10

PETITION OF APPEAL

In the Court
of Appeal

No.10

Petition of
Appeal

4th September
1980

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 63 OF 1980

Between

The First National Bank of Chicago Appellants

And

Tan Lai Wah (f) Respondent

In the Matter of Suit No. 1464 of 1977

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Between

The First National Bank of Chicago Plaintiffs

And

1. How Lee Realty Pte Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi Yook (m.w.)
4. Tan Lai Wah (f) Defendants

PETITION OF APPEAL

To the Honourable the Judges of the Court of
Appeal.

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The Petition of the abovenamed Appellants
showeth as follows :-

1. The appeal arises from a claim by the
Plaintiffs against the 4th Defendant for the
sum of \$2,520,198-91 together with interest
thereon on a Guarantee dated the 18th day of
April 1974.

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2. By judgment dated the 3rd day of July 1980,
judgment was given for the 4th Defendant against
the Plaintiffs whereby the Plaintiffs' claim
was dismissed with costs.

3. Your Petitioners are dissatisfied with the
said judgment on the following grounds :-

- (1) The learned trial Judge erred in law
in finding that the plea of non est
factum applied to the 4th Defendant,
although in his judgment he had stated
it as an undisputed fact that the 4th
Defendant had agreed to stand as a
guarantor for the 1st Defendant Company

In the Court
of Appeal

No.10
Petition of
Appeal
4th September
1980
(continued)

in consideration of the Plaintiffs' agreeing to renew the overdraft facilities to the 1st Defendant for a further period of one (1) year.

- (2) The learned trial Judge further erred in fact and in law in his findings that for the purpose of establishing the doctrine of non est factum:
- (a) there was a radical or fundamental difference in what the 4th Defendant believed she was signing and the document upon which she was being sued; 10
 - (b) in all the circumstances surrounding the transaction the 4th Defendant had acted reasonably and prudently.
- (3) The learned trial Judge further erred in that he failed to consider or appreciate : 20
- (a) the 4th Defendant affidavits affirmed on the 4th and 14th of November 1977 respectively wherein the 4th Defendant had admitted the execution of the Guarantee dated 18th April 1974 and the purpose for which it was required;
 - (b) the Exhibits tendered in evidence, in particulars the effect of Exhibits P.9, P.22 and P.25; 30
- the sum total of which clearly establishes that the 4th Defendant knew the nature and purport of the document she was executing.

4. Your Petitioners pray that such judgment may be reversed or set aside and for such further or other order as to this Honourable Court may seem fit.

Dated the 4th day of September 1980.

Sd: Rodyk & Davidson 40
Solicitors for the Appellants

wsc/cn

No. 11

In the Court
of Appeal

RESPONDENT'S NOTICE

No.11

Respondent's
Notice

IN THE COURT OF APPEAL IN SINGAPORE

CIVIL APPEAL NO. 63 OF 1980

11th September
1980

Between

The First National Bank of Chicago Appellants

And

Tan Lai Wah Respondent

In the Matter of Suit No. 1464 of 1977

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Between

The First National Bank of Chicago Plaintiffs

And

1. How Lee Realty Pte. Ltd.

2. Edward Kong Kee Yee

3. Catherine Kong nee Ho Hoi Yook
(M.W.)

4. Tan Lai Wah (f) Defendants

RESPONDENT'S NOTICE

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Take notice that, on the hearing of the above appeal, the Respondent abovenamed, will contend that the decision of the Honourable Mr. Justice D'Cotta given on the 3rd day of July 1980 ought to be affirmed on the grounds hereinafter set out additional to those relied upon by the trial court :

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(1) That there was no consideration moving from the Plaintiffs to the Fourth Defendant for the said Guarantee;

(2) That upon the strict construction of the said Guarantee the Fourth Defendant only undertook to pay to the Plaintiffs the monies lent to or paid to the use of the First Defendant after she signed the said Guarantee and that no monies were lent or paid to the use of the First Defendant after the date the said Guarantee was signed by the Fourth Defendant;

(3) That the Fourth Defendant has been discharged of her liability under the

In the Court
of Appeal

No.11
Respondent's
Notice
11th September
1980
(continued)

said Guarantee by reason that the
Plaintiffs have been guilty of laches.

Dated the 11th day of September 1980.

Sd: J.B.Jeyaretnam & Co.
Solicitors for the Respondent

To: The Registrar,
Supreme Court,
Singapore.

And to Messrs. Rodyk & Davidson,
Solicitors for the Appellants.

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No.12
Judgment of
the Court of
Appeal
20th May 1981

No. 12

JUDGMENT OF THE COURT
OF APPEAL

IN THE COURT OF APPEAL IN SINGAPORE
CIVIL APPEAL NO. 63 OF 1980

Between

The First National Bank of Chicago Appellants

And

Tan Lai Wah (f) Respondent

IN THE MATTER OF SUIT NO. 1464 OF 1977

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Between

The First National Bank of Chicago Plaintiffs

And

1. How Lee Realty Pte. Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi Yook (m.w.)
4. Tan Lai Wah (f) Defendants

Coram: Wee C.J.
Kulasekaram J.
A.P.Rajah J.

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J U D G M E N T

This appeal arises from a Judgment of
D'Cotta J., dated the 3rd day of July 1980,
dismissing a claim by the Appellants (Plaintiffs)
against the Respondent (4th Defendant) for the

sum of \$2,520,198.91 together with interest thereon on a Guarantee dated the 18th day of April 1974 by the 4th Defendant in favour of the Plaintiffs.

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of Appeal

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Appeal

20th May 1981

(continued)

10 The Plaintiff's claim against the 1st Defendant, the borrower, was for the sum of \$2,520,198.91 with interest thereon at 8% per annum, due and owing by the 1st Defendant in respect of overdraft facilities extended by the Plaintiff bank to the 1st Defendant. The claim against the 2nd, 3rd and 4th Defendants arose out of three separate Guarantees executed by each of them guaranteeing the due payment by the 1st Defendants to the Plaintiffs of moneys owing in respect of the said overdraft facilities.

20 In March 1973 the 2nd Defendant agreed to purchase from Tomlinson Pte. Ltd. for about \$2.7 million 40,523 sq. ft. of land and bungalow erected thereon and in a dilapidated condition known as No.10 Tomlinson Road (No.10) which was then zoned residential on the Master Plan. He was able on his own to pay the 10% deposit on the purchase price but payment to the vendor of the balance of the purchase price was effected by the 1st Defendant through overdraft facilities provided for it by the Plaintiffs up to the limit of \$2.5 million for principal moneys with liberty to the Bank to increase such limit up to such further or additional amount as may be fixed by the Bank at its absolute discretion for a period of one year from the date of the first drawdown and thereafter the renewal of such overdraft facilities was to be reviewed anew. The conveyance of No.10 was then taken in the name of the 1st Defendant, of which the 2nd and 3rd Defendants were directors, and immediately thereafter a legal mortgage, in which the 2nd and 3rd Defendants joined in as sureties, was executed, bearing the date 2nd May 1973, by the 1st Defendants, as owners of No.10, in favour of the Plaintiffs in respect of the said overdraft facilities. Before the mortgage deed was signed the 2nd and 3rd Defendants had each of them executed separately on 18th April 1973 unlimited guarantees in favour of the Plaintiffs securing the overdraft account. Before the said overdraft facilities was approved by the Plaintiffs Messrs. Victor & Mendis, a firm of land valuers, valued No.10 for the Bank at \$4.8 million. It should be noted, however, that No.10 was not valued by the valuers as residential property, which was its then zoning on the Master Plan, but as commercial

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Judgment of the
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20th May 1981

(continued)

property, on assumptions the valuers were not justified in making, and which, perhaps, accounts for the great disparity between the actual purchase price and the amount at which No.10 was valued. It is also relevant to note that the 4th Defendant acted as broker in the purchase of No.10 for which she was paid her commission. It was not disputed that whenever the 1st Defendants were unable to meet interest payments on the mortgage the 1st Defendants would borrow from the 4th Defendant and that she had thus in all lent the company a sum of about \$280,000/-. It was also not in dispute that the 4th Defendant (1) had had a Chinese education up till the age of 14 years, (2) could, in her own words, "understand simple every day English, not the profound type", (3) was a land broker of some 17 to 18 years standing, (4) was running an adequately staffed office for this purpose, (5) had a translator and interpreter in her office for translating and interpreting to her, from Hokkien into English and vice versa letters and documents relating to her business, (6) had legal advisers whom she could readily call upon, (7) is a fairly competent business woman in a highly competitive field of business, (8) was a director of two companies which she had formed herself and (9) had previously executed guarantees in English.

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The first drawdown on the overdraft account was on the 18th April 1973. In early April 1974, that is some ten days before the expiry date of the one year overdraft facilities, the Plaintiffs advised the 1st and 2nd Defendants that they were prepared to review such facilities for a further period provided that additional security or an additional guarantor acceptable to them was provided and that the 4th Defendant would be acceptable to them as guarantor as she was well known to them. The 2nd Defendant then approached the 4th Defendant and obtained her signature on 18th April 1974 to an unlimited guarantee in favour of the Plaintiffs in terms similar to the ones he and the 3rd Defendant had given to the Plaintiffs on the 24th April 1973. Her signature was then witnessed by one Lim Sin, her son-in-law, and a partner in the legal firm of Messrs. Lim Sin & Thiam Beng who were her legal advisers. This unlimited guarantee was then delivered to the Plaintiffs by the 2nd Defendant and the overdraft facilities were then extended by the Plaintiffs for a further period of one year. It is common ground that after the date of the guarantee signed by her no further

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advance was made by the Plaintiffs to the 1st Defendants.

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of Appeal

On the 22nd April 1974 the Plaintiffs wrote to the 1st and 2nd Defendants with a copy to the 4th Defendant as follows :

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Appeal

" Re: How Lee Realty

20th May 1981

(continued)

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We acknowledge receipt of the unlimited Guarantee form signed by Madam Tan Lai Wah and duly witnessed by Mr. Lim Sin, Advocate and Solicitor. Kindly forward to us a copy of the Board of Directors' Resolution appointing Madam Tan a Director of the Company. "

Not hearing from the 1st Defendant on the 4th Defendant's appointment as director, the Plaintiffs wrote again to the 1st Defendant on 13th May 1974 as follows (inter alia):

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" As we have not received the Board of Directors' Resolutions appointing Madam Tan as a director, could you please forward this to us as soon as possible."

She was appointed a director of the 1st Defendants on 7th June 1976. On 16th December 1976 No.10 was put up for auction by the Plaintiffs, at which although the opening request by the auctioneer was a bid of \$880,000/-, no bids were offered. The Bank subsequently sold No.10 by private treaty to the Urban Renewal Authority in July 1977 for \$1,024,955.32.

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It was in these circumstances that the Plaintiffs commenced proceedings against the 1st, 2nd, 3rd and 4th Defendants for the balance of \$2,520,198.91 with interest at 8% per annum. Summary judgment was obtained against both the 1st and 3rd Defendants; as against the 2nd Defendant judgment in default of appearance was entered against him on the 26th October 1977; the 4th Defendant, on an Order 14 Summons, at which she was represented by counsel, was given unconditional leave to defend on her plea that consideration for the execution of the guarantee was past consideration. It will be noted that at this stage of the proceedings the 4th Defendant had not raised the plea of non est factum as her primary defence.

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The 4th Defendant in her Further Amended Defence dated 24th October 1979, the date of the commencement of the trial of the action,

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(continued)

raised four defences against the Plaintiffs' claim, the non est factum plea being raised for the first time:

- (1) That at the time she signed the Guarantee it was represented to her by the 2nd Defendant that what she was signing was a guarantee of her interest in No.10 which she jointly owned with the 2nd Defendant and she honestly believed such representation. 10
- (2) That the Plaintiffs did not give any consideration in law or at all for her signing the Guarantee.
- (3) That she did not by the terms of the Guarantee undertake to pay the Plaintiffs monies lent to or paid for the 1st Defendant prior to and before she signed the Guarantee on 18th April 1974.
- (4) That her liability under the Guarantee, if any, had been discharged by the Plaintiffs acting unreasonably in the sale of No.10 in a manner detrimental to her and thereby prejudicing her. 20

The learned trial Judge in his judgment having said :

"The defence raised two main issues as follows :-

- (1) non est factum;
- (2) that there was no consideration moving from the bank to her for the guarantee she is alleged to have signed as the document upon which she is being sued is not one under seal. " 30

went on to make the following findings on the non est factum plea :-

- (1) That the Guarantee was not read and explained to the 4th Defendant before she executed it and that the Bank and its agents had failed to discharge their burden; 40
- (2) That it was so represented to the 4th Defendant by the 2nd Defendant that the document she was signing was one intended to guarantee payment of interest to the Plaintiffs on No.10 and

in return for which she was to be given a 50% share in No.10 whereas in fact the document sued on sought to make her liable without limit for all monies advanced by the Plaintiffs to the 1st Defendant right from the very beginning;

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(continued)

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(3) That there was a radical difference from what the 4th Defendant believed she was signing and the document upon which she was being sued;

(4) That taking all the conditions prevailing at the time when the 4th Defendant signed the document, she had, in so signing, acted reasonably and prudently in the circumstances.

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On these findings and on his reading of Saunders v. Anglis Building Society (1970) 3 A.E.R. 961 (the Saunders case) the learned trial Judge dismissed the action with costs on the basis that in his judgment the 4th Defendant has successfully established the plea of non est factum. Further, he went on to say that in view of his so finding, the necessity of considering the other defences raised by the 4th Defendant did not arise.

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Against this Judgment the Plaintiffs appeal on the ground that in all the circumstances of the instant case the learned trial Judge erred in fact and in law in finding that the plea of non est factum had been successfully established by the 4th Defendant; and the 4th Defendant, for her part, contends that the decision of the learned trial Judge ought to be affirmed on the grounds hereinafter set out, additional to that relied upon by the trial court :-

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(1) That there was no consideration moving from the Plaintiffs to the 4th Defendant for the said Guarantee;

(2) That upon the strict construction of the said Guarantee the 4th Defendant only undertook to pay to the Plaintiffs the monies lent to or paid to the use of the 1st Defendant after she signed the said Guarantee and that no monies were lent or paid to the use of the 1st Defendant after the date the said Guarantee was signed by the 4th Defendant;

(3) That the 4th Defendant has been

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discharged of her liability under the
said Guarantee by reason that the
Plaintiffs have been guilty of laches.

1. The plea of non est factum

"The plea of non est factum can only rarely be established by a person of full capacity and although it is not confined to the blind and illiterate any extension of the scope of the plea would be kept within narrow limits. In particular, it is unlikely that the plea would be available to a person who signed a document without informing himself of its meaning. The burden of establishing a plea of non est factum falls on the party seeking to disown the document and that party must show that in signing the document he acted with reasonable care. Carelessness (or negligence devoid of any special, technical meaning) on the part of the person signing the document would preclude him from later pleading non est factum on the principle that no man may take advantage of his own wrong; it is not, however, an instance of negligence operating by way of estoppel" (Saunders Case 961)

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The evidence of the 4th Defendant relevant to her plea of non est factum reads as follows:-

" The signature of Exh.P2 (the guarantee document) is mine. P.W.3 (2nd Defendant) told me that Mathew Lim from the Bank (Plaintiffs) suggested that I become his (2nd Defendant's) guarantor. This was 10 days before P2 was signed. He told me that Mathew Lim had said I was a property owner and would be able to provide him the money to pay for the interest of Tomlinson Road. P.W.3 said I should be guarantor for this piece of land. P.W.3 told me I had 50% share in this land and I myself was so interested in it. I did not say anything; subsequently he came with P2 (guarantee document) for me to sign. He never told me about renewing overdraft facilities offered to How Lee Realty Ltd. (1st Defendant). P.W.3 came to my office to see me P.W.3 (2nd Defendant) told me that Mathew Lim wanted me to sign P2 in respect of my 50% interest in this piece of land. He did not say what the document was. He said to guarantee the land at Tomlinson Road. Yes, I was happy to sign. I was very interested in this piece of land. P.W.3 (2nd Defendant) had to give me something in respect of my

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50% interest in the land. I was happy to sign P2. I regarded P2 (the guarantee document) as proof that I was holding 50% interest in the land. P.W.3 did not explain the document to me. He stood there; he was hardly there for 10 minutes. He was in a hurry and asked me to sign the document quickly. He left immediately after I had signed the document. He showed me where to sign. Nothing else was said between P.W.3 and I; I considered P2 as proof that I held 50% interest in Tomlinson Road. There are so many types of guarantees; we must know what it is about; if we accept it we can act as guarantor. As far as I am concerned I thought that P2 was a guarantee that I had 50% interest in Tomlinson Road...I did not know I was guaranteeing an unlimited amount; if I had known that I would not have signed. P.W.3 P2 from me after signing; I never asked him to get my signature witnessed by Lim Sin. Later that afternoon Lim Sin telephoned me, he said, "Mummy you happy to sign this guarantee in respect of the land at Tomlinson Road". I said Yes, I was happy...Nothing else was said. Lim Sin put the receiver down...He (Lim Sin) never asked me whether I understood everything inside the guarantee...Plaintiffs never wrote to me for being a guarantor for an account with them. No one from the Bank spoke to me."

The 2nd Defendant's evidence relevant to this plea may be divided into two parts, one dealing with what happened some few days before the guarantee was signed by the 4th Defendant and the other with what took place on the day of the signing of the guarantee, namely, the 18th April 1974. His evidence relating to the first part reads as follows :-

" Madam Tan Lai Wah recommended me to purchase this property. She was a broker. Property owned by Tomlinson Pte. Ltd. Accounts were to be reviewed after one year. For the first year company paid interest regularly; if I was short of money I would borrow from Madam Tan. I did borrow from her. Before expiry date Plaintiffs told me they were prepared to review facilities provided I pay 2% commitment fees as well as provide additional security, or guarantor acceptable to the Bank. I don't know why

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(continued)

Plaintiffs wanted additional security or guarantor but they intimated that they would feel more comfortable. I informed Plaintiffs I would look for additional security. Plaintiffs suggested Madam Tan as guarantor since I had other business with her. I had discussions with Madam Tan if she would stand guarantor for an extension of another year of facilities given to me. She said that land was good price at \$130 per sq. ft. and she agreed to be guarantor. Plaintiffs agreed to accept Madam Tan as guarantor. "

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From this evidence it seems clear that the 4th Defendant some few days before the signing of the guarantee had agreed to stand guarantor in favour of the bank for an extension of another year of facilities given to the 1st Defendants.

It was never in dispute that the document the 4th Defendant had signed had factually not been read, explained or translated to her. There is however no evidence that this competent land broker had asked either the 2nd Defendant or Lim Sin or for that matter her translator-clerk for such reading, explanation or translation before signing.

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It would appear from the judgment of the learned trial Judge that he had agreed with a submission by counsel for the 4th Defendant that there was only one material fact in dispute and that this revolved around what was said by Lim Sin to the 4th Defendant when he telephoned her on the afternoon of the 18th April 1974 before he attested her signature to the guarantee. With respect we do not agree with this approach. The non est factum issue, in our view, did not revolve so much around the credibility or otherwise of Lim Sin, the 4th Defendant's Solicitor as around the question whether the 4th Defendant knew the nature and content of the document she was signing, that is to say, whether she knew that she was signing an Unlimited Guarantee in favour of the Plaintiffs to secure overdraft facilities being extended by the Plaintiffs to the 1st Defendant for a further one year. Lim Sin's evidence and that of the 2nd and 4th Defendants' were not the only available and relevant evidence before the Court. Where oral self-interested testimony is conflicting on a particular matter and there is contemporaneous or near contemporaneous documentary evidence relevant to the matter before the Court, such

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evidence should, in our view, be also given due consideration by the Court, particularly if such documents came into existence long before the matter in question became one of dispute between the parties, before it makes a finding on the matter in issue. There can, in our view, be no more disinterested, reliable, or weighty evidence than this. There were three such documents before the Court. The first was a letter dated 22nd April 1974 (AB4) written by the Plaintiffs to the 2nd Defendant with copy to the 4th Defendant and it reads as follows :-

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(continued)

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" Re: How Lee Realty

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We acknowledge receipt of the Unlimited Guarantee form signed by Madam Tan Lai Wah and duly witnessed by Mr. Lim Sin, Advocate & Solicitor. Kindly forward to us a copy of the Board of Directors' Resolution appointing Madam Tan a Director of the Company."

The second was also a letter dated 8th August 1974 also written by the Plaintiffs to the 4th Defendant's solicitors in reply to a request to them by the said solicitors and it reads as follows :-

" Re: Madam Tan Lai Wah's
 Guarantee in favour of
 M/s. How Lee Realty Pte.Ltd.

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As requested, we enclose herewith a photocopy of Madam Tan's Guarantee. In particular, please note Clause (3). "

The third was yet another letter dated 10th August 1974 written this time by the 4th Defendant's solicitors to the Plaintiffs and it reads as follows :-

" Madam Tan Lai Wah's Guarantee
 in favour of M/s. How Lee
 Realty Pte. Ltd.

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We thank you for the xerox copy of Madam Tan Lai Wah's Guarantee which was requested by her and acknowledge receipt thereof."

A reading of the first letter, paying special attention to its subject heading makes it, in our view, patently clear that the 4th Defendant certainly knew on or about the 22nd April 1974, if not before, that she had signed an unlimited guarantee, on the 18th April 1974,

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(continued)

that is to say 4 days earlier, in favour of the 1st Defendants and not as she says, a document guaranteeing to her a 50% interest in No.10. The second and third letters clearly indicate that certainly on or about the 8th August 1974, if not before, - that is to say within 3 months of her signing the Guarantee - she was aware of the contents of the Guarantee she had signed on the 18th April 1974. On the basis of her evidence it is difficult to understand why she should have signed a document guaranteeing her a 50% interest in No.10; in such circumstances one would have thought that it should have been the 2nd Defendant, and not she, who should have been the signatory. Again, it is difficult to understand why this document of proof of her 50% interest in No.10, having been signed, should have been allowed to be taken away by the 2nd Defendant and handed over to the Plaintiffs and not kept by her as such proof. It is even more difficult to understand why after sighting the first letter she did nothing about the 2nd Defendant having tricked her into signing an Unlimited Guarantee in favour of the Plaintiffs. We are satisfied that, if the attention of the learned trial Judge had been specifically directed to these three documents, he would not have held as he did, that, in his judgment, the 4th Defendant had successfully established the plea of non est factum.

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It is also our view that having regard to her long experience as a land broker and other spheres of business as previously set out - factors which the learned trial judge appeared to have not considered - her mere assertion that she thought the document she signed was one guaranteeing her a half share in No.10 was unbelievable.

2. Plea of no consideration

The 4th Defendant (Respondent) contends that in the circumstances of the instant case there was no consideration moving from the Plaintiffs (Appellants) to the 4th Defendant for the said guarantee. Overdraft facilities up to \$2.5 million to the 1st Defendants were granted by the Plaintiffs for a period of one year from the date of the first drawdown, namely the 18th April 1973. These overdraft facilities were secured by a legal mortgage on No.10 in favour of the Plaintiffs and further secured by two unlimited guarantee, one by the 2nd Defendant and the other by the 3rd Defendant. Sometime before the period of one year came to an end the

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10 Plaintiffs were willing to renew the said overdraft facilities for a further period of a year provided additional security or an additional guarantee was brought in as further security. It was to meet this stipulation for renewal of the overdraft facilities that the 4th Defendant (Respondent) was brought in. In our view, this was good and sufficient consideration moving from the Plaintiff Bank to the 4th Defendant. Although it is not necessary to record in a guarantee the consideration for which it is given (section 3 Mercantile Law Amendment Act 1856) a bank guarantee usually includes a clause describing why the guarantor has undertaken the liability. This Guarantee is no exception and it contains the clause "In consideration of the First National Bank of Chicago...at our request making or continuing advances (underlining ours) or otherwise giving credit or affording banking facilities (underlining ours) for so long as the Bank may think fit." In our view, the expression "continuing advances" and "affording banking facilities" are quite sufficient in themselves to meet the circumstances under which the guarantee in the instant case was given. We accordingly reject the 4th Defendant's plea of no consideration.

3. Plea of no liability for past loans

30 The 4th Defendant (Respondent) says that by the terms of the Guarantee she did not undertake to pay the Plaintiffs monies lent to or paid for the 1st Defendant, the obligor, prior to and before she signed the Guarantee. The operative clause of the Guarantee reads, "I...HEREBY GUARANTEE on demand in writing being made to me to pay and satisfy to the Bank all sums of money which are now or shall at any time be owing to the Bank anywhere on any account whatsoever....." As a matter of construction of the operative clause the 4th Defendant (Respondent) thereby guaranteed to 40 the Bank not only all sums of money that were owing to the Bank on the 18th April 1974, being the date of the said Guarantee, but also all those that were owing to it from time to time until written demand when the debt crystallised and became due and payable. Here again we see no merit in this plea and reject it.

4. Plea of Laches

50 The 4th Defendant (Respondent) contends that she has been discharged under the said Guarantee by reason that the Plaintiffs

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of Appeal

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(continued)

(Appellants) have been guilty of laches. She cites four instances of such guilt, namely that:

- (i) In or about July or August 1975 the Plaintiffs their agents or servant prevented a sale at a price of \$4.5 million of the property which was mortgaged to the Plaintiffs to secure the amount due to the Plaintiffs on the 1st Defendant's account. The price was well in excess of the amount due to the Plaintiffs on the said account. 10
- (ii) In or about March 1976 the Plaintiffs unreasonably refused to give their consent to a sale of the said property at a price of \$2.5 million which price was later increased to \$3 million insisting upon a price of \$4 million before they would consent. At the material time, the amount due to the Plaintiffs on the account of the 1st Defendant was only \$3,028,653.35. 20
- (iii) In December 1976 the Plaintiffs unreasonably refused an offer to purchase the said property for \$1,256,213.00 made at an auction sale at which the property had been put up for sale by the Plaintiffs under their power of sale.
- (iv) In July 1977 the Plaintiffs sold the said property for only \$1,024,955.32 30

and says that in all these four instances the Plaintiffs acted without her consent and/or knowledge and that she had not been kept informed by the Plaintiffs.

Acting in accordance with the terms and conditions of the Mortgage the Plaintiffs sold No.10 by private treaty to the Urban Renewal Authority for the sum of \$1,024,955.32. It is to be noted that Clause 5(v) of the Mortgage provides that "the Bank shall not be answerable for any involuntary loss happening in or about the exercise or execution of any power conferred upon the Bank by these presents or by the Conveyancing and Law of Property Act (Cap.268)." 40

Instance (i). There is no satisfactory evidence on this as to a firm offer to buy. There is some evidence of talks as to possible purchase and no more. In any event all these talks relate to the purchase of No.10 only in

the event of the Competent Authority granting a conversion of use from residential to commercial.

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of Appeal

Instance (ii). Here again the offer to purchase at \$2.5 million, later increased to \$3 million, was conditional on No.10 being converted to commercial use and approval of layout plans being obtained by the owners of No.10, namely the 1st Defendants.

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20th May 1981
(continued)

10 Instance (iii). There is no evidence to support these allegations. In fact the evidence on record negatives these allegations. The evidence of the Assistant Manager of the Plaintiff Bank is that, far from there being a bid for \$1,256,213/-, at the auction, there was no bid at all and her evidence is supported by Exhibit P12 which records that on the date of the live auction, namely the 16th December 1976 "the opening request was for a bid of \$880,000/-.
20 No bids were offered".

Instance (iv). Here the Plaintiffs did in fact sell No.10 by private treaty for the sum of \$1,024,955.32 as alleged. The gravamen of the charge is that it was sold at an under-value. It is in evidence that before this sale the Plaintiffs had not obtained a valuation. The question here is whether the Plaintiffs should reasonably have sold No.10 at this price or at some other higher figure. The evidence adduced at the trial and which is relevant to this aspect of the matter is as follows :-
30 (1) Exhibit P10 states that the appraised value of No.10 in August 1975 was \$1,418,305 on existing "use" basis. (2) Solicitors' letter dated 23rd July 1976 written on behalf of the 1st Defendant Company and all the three guarantors who were also its directors to the solicitors of the Plaintiffs which states, inter alia, that the price of \$1.5 million for No.10 is above the current market value (Exhibit P25). (3) No bids were offered for No.10 at a live auction on the 16th December 1976, although the opening request by the auctioneer was for a bid of \$880,000/-.
40 (4) The evidence of the Assistant Manager of the Plaintiff Bank at page 35F of the Record regarding the sale of No.10 to the Urban Renewal Authority in July 1977 which runs as follows:-

50 "Eventually property sold on a residential basis for \$1 million; property market fell at that time".

The evidence that "property market fell at that

In the Court
of Appeal

No.12
Judgment of
the Court of
Appeal
20th May 1981
(continued)

time" was not challenged by the 4th Defendant.

As it is the 4th Devendant who is alleging that No.10 was sold at an undervalue the burden of proof is on her. She, however, did not see fit to produce expert independent evidence to say that when No.10 was sold to the Urban Renewal Authority it was at an undervalue. In these circumstances and on the evidence before the Court we are in no position to say whether the Plaintiffs had in fact sold No.10 at an undervalue. We are of the view that the 4th Defendant has not discharged her burden of proof.

10

As regards her contention that the Plaintiffs acted in the said sale without her knowledge and/or consent and that she had not been kept informed of such sale by the Plaintiffs we are of the view that neither in law (G.Mercel & Co.Ltd.v. Barclays Bank (1963) 107 Solicitors' Journal 542) nor under the Guarantee are there any such obligations owed by the Plaintiff Bank to the Guarantor. In the case of a mortgage "It is now clearly established that a mortgagee, when exercising his power of sale, owes a duty to the mortgagor to take reasonable care to obtain a proper price. The burden of proof is on the mortgagor to prove breach of this duty by the mortgagee" (Fisher & Lightwood's Law of Mortgage (9th Edn.) page 368). See also Cuckmere Brick Co.Ltd. & another v. Mutual Finance Ltd. (1971) 1 Ch.949. Beyond this duty the mortgagee has no duty to inform or obtain the consent of the mortgagor or keep him informed of the sale of the mortgaged property. In the instant case the rights and duties of the Plaintiff Bank and of the 4th Defendant are governed by the Guarantee. There is no provision in the Guarantee which requires the Plaintiffs to inform or obtain the consent of the 4th Defendant or keep her informed of the sale of the mortgaged property. However, we are of the view that there is an implied term in the contract of guarantee whereby the Bank, in whose favour the guarantee is given has a similar duty to the guarantor, as indeed it has to the mortgagor, whose property is being sold under its power of sale, to take reasonable care to obtain a proper market price. As we have said before there is no evidence that No.10 was sold at an undervalue.

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For these reasons the appeal must be allowed with costs here and below.

CHIEF JUSTICE

JUDGE

In the Court
of Appeal

JUDGE

No.12
Judgment of
the Court of
Appeal

20th May 1981
(continued)

SINGAPORE
20th May 1981

amy/rl/nhc

No.13

FORMAL JUDGMENT

No.13
Formal
Judgment
13th June 1981

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Suite No. 1464 of 1977

10

Between

The First National Bank of
Chicago

Plaintiffs

And

1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi
Yook (m.w.)
4. Tan Lai Wah (f)

20

Defendants

J U D G M E N T

The 13th day of July 1981

Pursuant to the Order of the Court of
Appeal dated the 20th day of May, 1981 in
Civil Appeal No.63 of 1980 WHEREBY IT WAS
ORDERED that :-

30

1. This Appeal be allowed and that the
Judgment of the Honourable Mr. Justice D'Cotta
dated the 3rd day of July, 1980 in favour of
the Respondent be set aside and that Judgment
be entered for the Appellants (Plaintiffs)
against the Respondent (4th Defendant) for the
sum of S\$2,520,198-91 together with further
interest thereon at 8% per annum from 6th day

In the Court
of Appeal

No.13
Formal
Judgment

13th June 1981
(continued)

of October 1977 to date of payment.

2. The costs of the Appeal herein and in the Court below be taxed and paid by the Respondent to the Appellants.

3. The deposit of \$500/- paid into Court by the Appellants as security for the Respondent's costs of the Appeal herein be paid out by the Accountant-General to the Appellants or their Solicitors, Messrs. Rodyk & Davidson.

IT IS THIS DAY ADJUDGED that :-

10

1. The Judgment of the Honourable Mr. Justice D'Cotta dated the 3rd day of July, 1980 in favour of the 4th Defendant, be and the same is hereby set aside.

2. The 4th Defendant do pay the Plaintiffs S\$2,520,198-91 together with further interest thereon at 8% per annum from 6th day of October 1977 to date of payment.

Entered the 13th day of June 1981 at 11.40 a.m. in Volume 233 Page 109.

20

Sd: Yap Chee Leong
Asst. Registrar

/wsc/nhe

No.14

In the Court
of Appeal

ORDER OF COURT GRANTING
LEAVE TO APPEAL TO THE
JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL

No.14
Order of Court
granting Leave
to Appeal to the
Judicial
Committee of
the Privy
Council

7th July 1981

IN THE COURT OF APPEAL IN SINGAPORE
CIVIL APPEAL NO. 63 OF 1980

Between

The First National Bank of Chicago Appellants

10

And

Tan Lai Wah (f) Respondent

IN THE MATTER OF SUIT NO. 1464 OF 1977

Between

The First National Bank of Chicago Plaintiffs

And

1. How Lee Realty Pte.Ltd.
2. Edward Kong Kee Yee
3. Catherine Kong nee Ho Hoi Yook (m.w.)
4. Tan Lai Wah (f) Defendants

20

ORDER OF COURT

BEFORE THE HONOURABLE THE CHIEF JUSTICE
MR. JUSTICE WEE CHONG JIN
THE HONOURABLE MR. JUSTICE T. KULASEKARAM
THE HONOURABLE MR. JUSTICE A.P. RAJAH

I N O P E N C O U R T

30

UPON the application of the abovenamed
Respondent made by way of Notice of Motion dated
the 20th day of June 1981 coming on for hearing
on the 6th of July 1981 and this day AND UPON
READING the affidavit of Tan Lai Wah filed
herein on the 1st of July 1981 AND UPON HEARING
the Solicitors for the Respondent and for the
Appellants IT IS ORDERED that :-

40

- i) The Respondent do have leave under
Section 3(1)(a)(i), (ii) and (iii) of
the Judicial Committee Act (Cap.8) to
appeal to the Judicial Committee of
Her Britannic Majesty's Privy Council
against the whole of the Judgment of
the Court of Appeal delivered herein at

In the Court
of Appeal

No.14
Order of Court
granting leave
to Appeal to
the Judicial
Committee of
the Privy
Council

7th July 1981

(continued)

Singapore on the 20th day of May 1981.

- ii) The application for suspension of execution of the said Judgment pending the appeal be dismissed.
- iii) The costs of this application be costs in the cause.

Dated the 7th day of July 1981

Sd: YAP CHEE LEONG
ASST. REGISTRAR

EXHIBITS

AB 1

LETTER, PLAINTIFF TO MR.
EDWARD KONG

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH

April 18 1973

10 Mr. Edward Kong c/o
Credit Investment (Pte) Ltd
19 Killiney Road
Singapore 9

Dear Edward:

RE: HOW LEE REALTY PTE.LTD.

Further to our discussions, we are pleased to confirm the availability of an overdraft facility to the above company. The terms and conditions of our offer are as follows :-

- 20 a) Obligor : How Lee Realty Pte.Ltd.
b) Amount : Up to S\$2,500,000
c) Period : One year from date of first drawdown, thereafter the facility will be reviewed.
- 30 d) Interest Rate : 2½% over the prime rate for S\$ advances at The First National Bank of Chicago, Singapore Branch which is presently 7½% p.a.
- e) Security : The facility shall be secured by a first legal mortgage on the land and properties known as 10 Tomlinson Road, Singapore (Lot 107-85, 107-86, 107-87, 107-88 & 107-89 T.S. XXIV)
- 40 f) Guarantors : Mr. Edward Kong jointly with Mrs. Edward Kong
g) General : All legal and other incidental expenses incurred in connection with the granting of the overdraft facility shall be borne by the obligor.

EXHIBITS

AB 1

Letter,
Plaintiff to
Mr. Edward
Kong

18th April
1973

EXHIBITS

AB 1

Letter,
Plaintiff to
Mr. Edward
Kong

18th April
1973

(continued)

We trust the above adequately summarizes our agreement. Please sign the copy of this letter signifying your concurrence and we look forward to receiving the Board of Directors' Resolutions authorizing the borrowing.

With best personal regards,

Accepted & Confirmed:

Sincerely,

ML/bp
Encl.

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AB 2

Unlimited
Guarantee
dated 18th
April 1974

AB 2

UNLIMITED GUARANTEE
dated 18th April 1974

The First National Bank of Chicago
Singapore Branch
49 Robinson Road
Singapore 1

20

1. In consideration of The First National Bank of Chicago (hereinafter called the Bank which expression shall where the context so admits include the Bank's successors and assigns) at our request making or continuing advances or otherwise giving credit or affording banking facilities for so long as the Bank may think fit to M/s. How Lee Realty (Pte) Ltd. of 7th Floor, OUE Building, Collyer Quay, Singapore, 1. (hereinafter called the Customer) either alone or jointly with any other person or persons, I the undersigned Tan Lai Wah of 122-A Cecil Street, Singapore 1. HEREBY GUARANTEE on demand in writing being made to me to pay and satisfy to the Bank all sums of money which are now or shall at any time be owing to the Bank anywhere on any account whatsoever whether from the Customer solely or from the Customer jointly with any other person or persons or from any firm in which the Customer may be a partner including the amount of notes or bills discounted or paid and other loans credits or advances made to or for the accommodation or at the request

30

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either of the Customer solely or jointly or of any such firm as aforesaid or for any money for which the Customer may be liable as surety or in any other way whatsoever together with in all cases aforesaid all interest discount and other banker's charges including legal charges occasioned by or incident to this or any other security held by or offered to the Bank for the same indebtedness or by or to the enforcement of any such security.

EXHIBITS
AB 2
Unlimited
Guarantee
dated 18th
April 1974
(continued)

10

2. This guarantee shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or any part of any sum or sums of money owing as aforesaid but shall be a continuing security and shall extend to cover any sum or sums of money which shall for the time being constitute the balance due from the Customer to the Bank upon any such account as hereinbefore mentioned.

20

3. This guarantee shall be binding as a continuing security on me my executors administrators and legal representatives until the expiration of three (3) calendar months after I or in case of my dying or becoming under disability my executors administrators or legal representatives shall have given to the Bank notice in writing to discontinue and determine it.

30

4. In the event of this guarantee ceasing from any cause whatsoever to be binding as a continuing security on me my executors administrators or legal representatives the Bank shall be at liberty without thereby affecting its rights hereunder either to open a fresh account or accounts or to continue any existing account with the Customer and no money paid from time to time into any such account or accounts by or on behalf the Customer shall on settlement of any claim in respect of this guarantee be appropriated towards or have the effect of payment of any part of money due from the Customer at the date when the guarantee is determined.

40

5. A certificate by an officer of the Bank as to the money and liabilities for the time being due and remaining or incurred to the Bank from or by the Customer shall be conclusive evidence in any legal proceedings against me my executors administrators and legal representatives in all courts of law and elsewhere.

50

6. The Bank shall be at liberty without any further consent from me and without thereby

EXHIBITS

AB 2

Unlimited
Guarantee
dated 18th
April 1974
(continued)

affecting its rights against me hereunder at any time to determine enlarge or vary any credit to the Customer to vary exchange abstain from perfecting or release any other securities held or to be held by the Bank for or on account of the monies intended to be hereby secured or any part thereof to renew bills and promissory notes in any manner and to compound with give time for payment to accept compositions from and make any other arrangements with the Customer or any obligants on bills notes or other securities held or to be held by the Bank for and on behalf of the Customer. 10

7. This guarantee shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by the Bank for all or any part of the money hereby guaranteed nor shall such collateral or other security or any lien to which the Bank may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the monies hereby secured be in anywise prejudiced or affected by this present guarantee. And the Bank shall have full power at its discretion to give time for payment to or make any other arrangement with any such other person or persons without prejudice to this present guarantee or any liability hereunder. And all money received by the Bank from me or the Customer or any person or persons liable to pay the same may be applied by the Bank to any account or item of account or to any transaction to which the same may be applicable. 20 30

8. This guarantee shall be applicable to the ultimate balance that may become due to the Bank and until repayment of such balance I will not be entitled as against the Bank to any right of proof in bankruptcy or insolvency of the Customer or other right of a surety discharging his liability in respect of the principal debt unless and until the ultimate balance shall have first been completely discharged and satisfied. 40

And further for the purpose of enabling the Bank to sue the Customer or prove against his estate for the whole of the money owing as aforesaid or to preserve intact the liability of any other part the Bank may at any time place and keep for such time as it may think prudent any money received recovered or realised hereunder to and at a separate or suspense account to the credit of me or of such other person or persons or transaction if any as it shall think fit without any intermediate obligation on the 50

part of the Bank to apply the same or any part thereof in or towards the discharge of the money owing as aforesaid or any intermediate right to the Customer or prove against his estate in competition with or so as to diminish any dividend or other advantage that would or might come to the Bank or to treat the liability of the Customer as diminished.

EXHIBITS

AB 2

Unlimited
Guarantee
dated 18th
April 1974

(continued)

- 10 9. I have not taken in respect of the liability hereby undertaken by me on behalf of the Customer and I will not take from the Customer either directly or indirectly without the consent of the Bank any promissory note bill or exchange mortgage charge or other counter-security whether merely personal or involving a charge on any property whatsoever of the Customer whereby I or any person claiming through me by indorsement assignment or otherwise would or might on the bankruptcy or insolvency of the Customer and to the prejudice of the Bank increase the proofs in such bankruptcy or insolvency or diminish the property distributable amongst the creditors of the Customer. And as regards any such counter-security as aforesaid which I may have taken or may take with such consent as aforesaid the counter-security shall be a security to the Bank for the fulfilment of my obligations hereunder and shall be forthwith deposited by me with the Bank for that purpose.
- 20
- 30 10. The Bank shall so long as any money remains due and unpaid hereunder have a lien on all securities belonging to me now or hereafter held by the Bank and on all money now or hereafter standing to my credit with the Bank on any current or other account.
11. For purposes of this guarantee, the singular includes the plural and vice versa.
- 40 12. If the name of the Customer hereinbefore inserted is that either of a firm or of a limited company or other corporation or of any committee or association or other unincorporated body any of the provisions hereinbefore contained which are primarily and liberally applicable to the case of a single and individual customer only shall be construed and take effect so as to give the Bank hereunder a guarantee for the money owing from that firm and every member thereof or from that limited company or corporation or committee or association or other unincorporated body as identical or analogous as
- 50 may be with or to that which would have been given for the money owing from a single individual

EXHIBITS

AB 2

Unlimited
Guarantee
dated 18th
April 1974
(continued)

if the Customer had been a single individual and any money shall be deemed to be so owing notwithstanding any defect informality or insufficiency in the borrowing powers of the Customer or in the exercise thereof which might be a defence as between the Customer and the Bank. In the case of a firm this guarantee shall be deemed to be a continuing guarantee of all money owing on any such account as hereinbefore mentioned from the person or persons carrying on business in the name of or in succession to the firm or from any one or more of such persons although by death retirement or admission of partners or other causes the constitution of the firm may have been in part or wholly varied. In the case of a limited company or other corporation any reference to bankruptcy shall be deemed to be a reference to liquidation or other analogous proceeding and the money owing as aforesaid and hereby guaranteed shall be deemed to include any money owing in respect of debentures or debenture stock of the limited company or other corporation held by or on behalf of the Bank. 10

13. This guarantee shall be in addition to and not in substitution for any other guarantee for the Customer given by me to the Bank.

14. Any notice or demand hereunder shall be deemed to have been duly given to me or my legal personal representatives by sending the same by post addressed to me or my legal personal representatives at the address hereunder written and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank and such notice or demand shall be deemed to be received by me or my legal personal representatives twenty-four (24) hours after the posting thereof and shall be sufficient if signed by any officer of the Bank or the Bank's Solicitors and in providing such service it shall be sufficient to prove that the letter containing the demand was properly addressed and put into the Post Office. 30 40

15. I waive in the Bank's favour all or any of my rights against the Bank or the Customer so far as may be necessary to give effect to any of the provisions of this guarantee and I agree that this guarantee shall be enforceable notwithstanding any change in the name of the Bank and that it shall enure for the benefit of any banking company with which the Bank may become amalgamated and to which the Bank shall assign it. 50

Dated the 18th day of April 1974.

WITNESSES:

Name: LIM SIN
Advocate & Solicitor
SINGAPORE

Address:

Signature: Lim Sin

EXHIBITS

AB 2

Unlimited
Guarantee
dated 18th
April 1974

(continued)

Signature of
Guarantor: Tan Lai Wah

Name: Tan Lai Wah

Address: 122-A Cecil Street,
Singapore 1.

10

AB 3

Letter dated
22nd April 1974
Plaintiffs to
Mr. Kong

AB 3

LETTER DATED 22nd April
1974 TO MR. KONG

April 22, 1974

Mr. Edward Kong,
How Lee Realty Pte. Ltd.
7th Fl. OUE Building,
Collyer Quay,
Singapore 1.

20

Dear Edward:

Re: How Lee Realty

We acknowledge receipt of the Unlimited
Guarantee form signed by Madam Tan Lai Wah and
duly witnessed by Mr. Lim Sin, Advocate &
Solicitor. Kindly forward to us a copy of
the Board of Directors' Resolution appointing
Madam Tan a Director of the company.

30

With best personal regards,

Sincerely,

c.c. Madam Tan Lai Wah
c/o M/s. Lim Sin & Thiam Beng
Advocates & Solicitors.

ML/vc.

EXHIBITS

AB 4

Letter dated
13th May 1974
from Plaintiffs
to Mr.Kong

AB 4

LETTER DATED 13th May 1974
FROM PLAINTIFFS TO MR. KONG

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH

May 13, 1974

Mr. Edward Kong
How Lee Realty Pte. Ltd.
7th Fl. OUE Building,
Collyer Quay,
Singapore 1.

10

Dear Edward:

Re: How Lee Realty Pte.Ltd.
Banking Facilities

We are pleased to renew the overdraft line of S\$2.5 million for a further year, expiring on May 31, 1975. Interest rate will be at 3 $\frac{1}{4}$ % over prime until further notice.

The line is secured by a mortgage on the property known as 10, Tomlinson Road, Singapore and guaranteed by yourself, Mrs. Kong and Madam Tan Lai Wah. As we have not received the Board of Directors' Resolutions appointing Madam Tan as a Director, could you please forward this to us as soon as possible.

20

Please sign the copy of this letter confirming your acceptance of our renewal facility.

With best personal regards,

Sincerely,

Accepted & Confirmed:

30

ML/vc

EXHIBITS

AB 5

LETTER DATED 8th August
1974 TO MR. LIM SIN FROM
PLAINTIFFS

AB 5

Letter dated
8th August
1974 to Mr.
Lim Sin from
Plaintiffs

August 8, 1974

10 Mr. Lim Sin,
M/s Lim Sin & Thiam Beng,
Rm.5F, FEB Building,
Cecil Street,
Singapore 1.

Dear Lim Sin:

Re: Madam Tan Lai Wah's Guarantee
In Favor of M/s How Lee Realty
Pte. Ltd.

As requested, we enclose herewith a photocopy
of Madam Tan's Guarantee. In particular,
please note Clause (3).

Sincerely,

20 ML/vc
encl:

EXHIBITS

AB 6

Letter dated
10th August
1974 from
Lim Sin to
Plaintiffs

AB 6

LETTER DATED 10th August
1974 FROM LIM SIN TO
PLAINTIFFS

5F, 5TH FLOOR, FAR
EASTERN BANK BUILDING,
156 CECIL STREET,
SINGAPORE 1.

LIM SIN & THIAM BENG
ADVOCATES & SOLICITORS

10

OUR REF: LS/k1/124/73

DATE: 10th August 1974

THE FIRST NATIONAL BANK OF CHICAGO,
SINGAPORE.

Attention: Mr. Mathew Lim

Dear Sirs,

Madam Tan Lai Wah's Guarantee
in favor of M/s. How Lee Realty
Pte. Ltd.

20

We thank you for the xerox copy of Madam
Tan Lai Wah's Guarantee which was requested by
her and acknowledge receipt thereof.

Yours faithfully,

Sd. LIM SIN & THIAM BENG

AB 7

AB 7

LETTER DATED 21st July 1976
FROM PLAINTIFFS' LAWYERS TO
FOURTH DEFENDANT

Letter dated
21st July 1976
from Plaintiffs'
lawyers to
Fourth
Defendant

21st July 1976

SKT/1581/76/jo

A.R. REGISTERED

Dear Madam,

10 We act for The First National Bank of
Chicago of No.49 Robinson Road, Singapore. We
are informed by our clients that as on the 20th
July 1976 a sum of S\$3,137,352.94 being the
principal and interest is outstanding and owing
by How Lee Realty (Pte) Ltd. which overdraft
facilities were guarantee by you.

20 We are instructed by our clients to and
do hereby demand of you payment of the sum of
S\$3,137,352.94 being the amount owing by you
together with interest at the rate of 3 $\frac{1}{2}$ % per
annum over the prime rate from time to time
stipulated by the Bank with monthly rests.
Take notice that unless the said sum of
S\$3,137,352.94 together with interest at the
rate aforesaid is paid to our clients on or
before 3.00 p.m. on the 26th July 1976 our
clients will take such steps as may be necessary
to enforce payment. The daily interest on the
30 outstanding is S\$766.74 per day for the period
21st to 26th July 1976, both dates inclusive.

Yours faithfully,
Sd. RODYK & DAVIDSON

MDM Tan Lai Wah @ Tan Yen Wah,
122-A, Cecil Street,
Singapore 1.

c.c. Clients.

EXHIBITS

AB 8

AB 8

Letter dated
4th February
1977 to How
Lee Realty from
Plaintiffs'
lawyers

LETTER DATED 4th February 1977
TO HOW LEE REALTY FROM PLAINTIFFS'
LAWYERS

4th February 1977

FM/198/77/po

A.R. REGISTERED

Dear Sirs,

Your Outstanding Account

10

We are solicitors for the First National Bank of Chicago and are instructed by our clients that you owe them the sum of S\$3,323,324.62 on your account with our clients as at 31st January 1977, inclusive of interest.

We are instructed by our clients to and do hereby demand full payment of the total outstanding due and owing on your account amounting to S\$3,323,324.62 together with further interest thereon at 10% per annum within seven (7) days from the date hereof, failing which our clients may be advised to take such appropriate action against you to recover payment in full, without further reference.

20

We trust that further action will not be necessary and that you will arrange to let our clients have the total outstanding within the period stipulated herein.

Yours faithfully,

How Lee Realty Pte. Ltd.
7th Floor Summer Centre,
37 Sommerset Road,
Singapore 9.

30

c.c. Mr. Edward Kong Kee Yee
Mrs. Catherine Kong nee Ho Hoi Yook
Mr. Tan Lai Wah
clients

EXHIBITS

AB 9

LETTER DATED 21st February
1977 FROM PLAINTIFFS' LAWYERS
TO FOURTH DEFENDANT

AB 9

Letter dated
21st February
1977 from
Plaintiffs'
lawyers to
Fourth
Defendants

21st February 1977

FM/198/77/po

A.R. REGISTERED

Dear Madam,

10

How Lee Realty Pte. Ltd.

Enclosed is a copy of our letter of demand on behalf of the First National Bank of Chicago calling for the repayment of the total outstandings on their account with our clients within seven (7) days.

20

Please note that if our clients do not receive settlement of the total outstandings within the prescribed period, they will call upon you for payment under your Guarantee dated 18th April 1974.

Yours faithfully,

Sd. RODYK & DAVIDSON

Madam Tan Lai Wah
33 One Tree Hill
Singapore 10.

c.c. clients

enc.

PLAINTIFFS'
EXHIBITS

PLAINTIFFS' EXHIBITS

P 1

P 1
Unlimited
Guarantee of
Edward Kong
dated 24th
April 1973

UNLIMITED GUARANTEE OF
EDWARD KONG dated 24th
April 1973

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH
49 ROBINSON ROAD
SINGAPORE 1

1. In consideration of The First National Bank of Chicago (hereinafter called the Bank which expression shall where the context so admits include the Bank's successors and assigns) at our request making or continuing advances or otherwise giving credit or affording banking facilities for so long as the Bank may think fit to How Lee Realty Pte.Ltd. of 7th Floor, Summer Centre, 37 Sommerset Road, Singapore 9 (hereinafter called the Customer) either alone or jointly with any other person or persons I the undersigned Edward Kong Kee Yee of 11 Watten Heights, Singapore 11 HEREBY GUARANTEE on demand in writing being made to me to pay and satisfy to the Bank all sums of money which are now or shall at any time be owing to the Bank anywhere on any account whatsoever whether from the Customer solely or from the Customer jointly with any other person or persons or from any firm in which the Customer may be a partner including the amount of notes or bills discounted or paid and other loans credits or advances made to or for the accommodation or at the request either of the Customer solely or jointly or of any such firm as aforesaid or for any money for which the Customer may be liable as surety or in any other way whatsoever together with in all cases aforesaid all interest discount and other banker's charges including legal charges occasioned by or incident to this or any other security held by or offered to the Bank for the same indebtedness or by or to the enforcement of any such security. 10
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30
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2. This guarantee shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or any part of any sum or sums of money owing as aforesaid but shall be a continuing security and shall extend to cover any sum or sums of money which shall for the time being constitute the balance due from the Customer to the Bank upon any such account as hereinbefore mentioned. 50

3. This guarantee shall be binding as a continuing security on me my executors administrators and legal representatives until the expiration of three (3) calendar months after I or in the case of my dying or becoming under disability my executors administrators or legal representatives shall have given to the Bank notice in writing to discontinue and determine it.
- 10 4. In the event of this guarantee ceasing from any cause whatsoever to be binding as a continuing security on me my executors administrators or legal representatives the Bank shall be at liberty without thereby affecting its rights hereunder either to open a fresh account or accounts or to continue any existing account with the Customer and no money paid from time to time into any such account or accounts by or on behalf the Customer shall on settlement of any claim in respect of this guarantee be appropriated towards or have the effect of payment of any part of money due from the Customer at the date when the guarantee is determined.
- 20
5. A certificate by an officer of the Bank as to the money and liabilities for the time being due and remaining or incurred to the Bank from or by the Customer shall be conclusive evidence in any legal proceedings against me my executors administrators and legal representatives in all courts of law and elsewhere.
- 30
6. The Bank shall be at liberty without any further consent from me and without thereby affecting its rights against me hereunder at any time to determine enlarge or vary any credit to the Customer to vary exchange abstain from perfecting or release any other securities held or to be held by the Bank for or on account of the monies intended to be hereby secured or any part thereof to renew bills and promissory notes in any manner and to compound with give time for payment to accept compositions from and make any other arrangements with the Customer or any obligants on bills notes or other securities held or to be held by the Bank for and on behalf of the Customer.
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7. This guarantee shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by the Bank for all or any part of the money hereby guaranteed nor shall such collateral or other security or any
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PLAINTIFFS'
EXHIBITS

P 1

Unlimited
Guarantee of
Edward Kong
dated 24th
April 1973
(continued)

lien to which the Bank may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the monies hereby secured be in anywise prejudiced or affected by this present guarantee. And the Bank shall have full power at its discretion to give time for payment to or make any other arrangement with any such other person or persons without prejudice to this present guarantee or any liability hereunder. And all money received by the Bank from me or the Customer or any person or persons liable to pay the same may be applied by the Bank to any account or item of account or to any transaction to which the same may be applicable. 10

8. This guarantee shall be applicable to the ultimate balance that may become due to the Bank and until repayment of such balance I will not be entitled as against the Bank to any right of proof in bankruptcy or insolvency of the Customer or other right of a surety discharging his liability in respect of the principal debt unless and until the ultimate balance shall have first been completely discharged and satisfied. 20

And further for the purpose of enabling the Bank to sue the Customer or prove against his estate for the whole of the money owing as aforesaid or to preserve intact the liability of any other part the Bank may at any time place and keep for such time as it may think prudent any money received recovered or realised hereunder to and at a separate or suspense account to the credit of me or of such other person or persons or transaction if any as it shall think fit without any intermediate obligation on the part of the Bank to apply the same or any part thereof in or towards the discharge of the money owing as aforesaid or any intermediate right to the Customer or prove against his estate in competition with or so as to diminish any dividend or other advantage that would or might come to the Bank or to treat the liability of the Customer as diminished. 30 40

9. I have not taken in respect of the liability hereby undertaken by me on behalf of the Customer and I will not take from the Customer either directly or indirectly without the consent of the Bank any promissory note bill or exchange mortgage charge or other counter-security whether merely personal or involving a charge on any property whatsoever of the Customer whereby I or any person claiming through me by indorsement assignment or otherwise would or might on the 50

bankruptcy or insolvency of the Customer and to the prejudice of the Bank increase the proofs in such bankruptcy or insolvency or diminish the property distributable amongst the creditors of the Customer. And as regards any such counter-security as aforesaid which I may have taken or may take with such consent as aforesaid the counter-security shall be a security to the Bank for the fulfilment of my obligations hereunder and shall be forthwith deposited by me with the Bank for that purpose.

PLAINTIFFS'
EXHIBITS

P 1

Unlimited
Guarantee of
Edward Kong
dated 24th
April 1973

(continued)

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10. The Bank shall so long as any money remains due and unpaid hereunder have a lien on all securities belonging to me now or hereafter held by the Bank and on all money now or hereafter standing to my credit with the Bank on any current or other account.

11. For purposes of this guarantee, the singular includes the plural and vice versa.

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12. If the name of the Customer hereinbefore inserted is that either of a firm or of a limited company or other corporation or of any committee or association or other unincorporated body any of the provisions hereinbefore contained which are primarily and liberally applicable to the case of a single and individual customer only shall be construed and take effect so as to give the Bank hereunder a guarantee for the money owing from that firm and every member thereof or from that limited company or corporation or committee or association or other unincorporated body as identical or analogous as may be with or to that which would have been given for the money owing from a single individual if the Customer had been a single individual and any money shall be deemed to be so owing notwithstanding any defect informality or insufficiency in the borrowing powers of the Customer or in the exercise thereof which might be a defence as between the Customer and the Bank. In the case of a firm this guarantee shall be deemed to be a continuing guarantee of all money owing on any such account as hereinbefore mentioned from the person or persons carrying on business in the name of or in succession to the firm or from any one or more of such persons although by death retirement or admission of partners or other causes the constitution of the firm may have been in part or wholly varied. In the case of a limited company or other corporation any reference to bankruptcy shall be deemed to be a reference to liquidation or other analogous proceeding and the money owing as

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PLAINTIFFS'
EXHIBITS

P 1

Unlimited
Guarantee of
Edward Kong
dated 24th
April 1973
(continued)

aforesaid and hereby guaranteed shall be deemed to include any money owing in respect of debentures or debenture stock of the limited company or other corporation held by or on behalf of the Bank.

13. This guarantee shall be in addition to and not in substitution for any other guarantee for the Customer given by me to the Bank.

14. Any notice or demand hereunder shall be deemed to have been duly given to me or my legal personal representatives by sending the same by post addressed to me or my legal personal representatives at the address hereunder written and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank and such notice or demand shall be deemed to be received by me or my legal personal representatives twenty-four (24) hours after the posting thereof and shall be sufficient if signed by any officer of the Bank or the Bank's Solicitors and in providing such service it shall be sufficient to prove that the letter containing the demand was properly addressed and put into the Post Office. 10
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15. I waive in the Bank's favour all or any of my rights against the Bank or the Customer so far as may be necessary to give effect to any of the provisions of this guarantee and I agree that this guarantee shall be enforceable notwithstanding any change in the name of the Bank and that it shall enure for the benefit of any banking company with which the Bank may become amalgamated and to which the Bank shall assign it. 30

Dated the 24th day of April 1973

WITNESSES:

Name: Thiam Beng

Address:

Signature:

Name:

Address:

Signature:

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Signature of
Guarantor:

Name: Edward Kong Kee Yee

Address: 11 Watten Heights,
Watten Estate,
Singapore 11.

PLAINTIFFS' EXHIBITS

P 1A

GUARANTEE OF CATHERINE KONG
dated 24th April 1973

PLAINTIFFS'
EXHIBITS

P 1A

Guarantee of
Catherine Kong
dated 24th
April 1973

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH
49 ROBINSON ROAD
SINGAPORE 1

- 10 1. In consideration of The First National
Bank of Chicago (hereinafter called the Bank
which expression shall where the context so
admits include the Bank's successors and assigns)
at our request making or continuing advances
or otherwise giving credit or affording banking
facilities for so long as the Bank may think fit
to How Lee Realty Pte Ltd. of 7th Floor, Summer
Centre, 37 Sommerset Road, Singapore 9 (herein-
after called the Customer) either alone or
jointly with any other person or persons.
- 20 I the undersigned Mrs. Catherine Kong nee Ho
Hoi Yook of 11 Watten Heights, Singapore 11
HEREBY GUARANTEE on demand in writing being made
to me to pay and satisfy to the Bank all sums of
money which are now or shall at any time be
owing to the Bank anywhere on any account what-
soever whether from the Customer solely or from
the Customer jointly with any other person or
persons or from any firm in which the Customer
- 30 may be a partner including the amount of notes
or bills discounted or paid and other loans
credits or advances made to or for the accomoda-
tion or at the request either of the Customer
solely or jointly or of any such firm as afore-
said or for any money for which the Customer may
be liable as surety or in any other way whatsoever
together with in all the cases aforesaid all
interest discount and other banker's charges
including legal charges occasioned by or incident
to this or any other security held by or offered
- 40 to the Bank for the same indebtedness or by or
to the enforcement of any such security.

2. This guarantee shall not be considered as
satisfied by any intermediate payment or
satisfaction of the whole or any part of any
sum or sums of money owing as aforesaid but
shall be a continuing security and shall extend
to cover any sum or sums of money which shall
for the time being constitute the balance due
from the Customer to the Bank upon any such
account as hereinbefore mentioned.

PLAINTIFFS'
EXHIBITS

P 1A

Guarantee of
Catherine Kong
dated 24th
April 1973
(continued)

3. This guarantee shall be binding as a continuing security on me my executors administrators and legal representatives until the expiration of three (3) calendar months after I or in case of my dying or becoming under disability my executors administrators or legal representatives shall have given to the Bank notice in writing to discontinue and determine it.

4. In the event of this guarantee ceasing from any cause whatsoever to be binding as a continuing security on me my executors administrators or legal representatives the Bank shall be at liberty without thereby affecting its rights hereunder either to open a fresh account or accounts or to continue any existing account with the Customer and no money paid from time to time into any such account or accounts by or on behalf the Customer shall on settlement of any claim in respect of this guarantee be appropriated towards or have the effect of payment of any part of money due from the Customer at the date when the guarantee is determined. 10 20

5. A certificate by an officer of the Bank as to the money and liabilities for the time being due and remaining or incurred to the Bank from or by the Customer shall be conclusive evidence in any legal proceedings against me my executors administrators and legal representatives in all courts of law and elsewhere. 30

6. The Bank shall be at liberty without any further consent from me and without thereby affecting its rights against me hereunder at any time to determine enlarge or vary any credit to the Customer to vary exchange abstain from perfecting or release any other securities held or to be held by the Bank for or on account of the monies intended to be hereby secured or any part thereof to renew bills and promissory notes in any manner and to compound with give time for payment to accept compositions from and make any other arrangements with the Customer or any obligants on bills notes or other securities held or to be held by the Bank for and on behalf of the Customer. 40

7. This guarantee shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by the Bank for all or any part of the money hereby guaranteed nor shall such collateral or other security or any lien to 50

which the Bank may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the monies hereby secured be in anywise prejudiced or affected by this present guarantee. And the Bank shall have full power at its discretion to give time for payment to or make any other arrangement with any such other person or persons without prejudice to this present guarantee or any liability hereunder. And all money received by the Bank from me or the Customer or any person or persons liable to pay the same may be applied by the Bank to any account or item of account or to any transaction to which the same may be applicable.

PLAINTIFFS'
EXHIBITS

P 1A

Guarantee of
Catherine Kong
dated 24th
April 1973

(continued)

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8. This guarantee shall be applicable to the ultimate balance that may become due to the Bank and until repayment of such balance I will not be entitled as against the Bank to any right of proof in bankruptcy or insolvency of the Customer or other right of a surety discharging his liability in respect of the principal debt unless and until the ultimate balance shall have first been completely discharged and satisfied.

And further for the purpose of enabling the Bank to sue the Customer or prove against his estate for the whole of the money owing as aforesaid or to preserve intact the liability of any other part the Bank may at any time place and keep for such time as it may think prudent any money received recovered or realised hereunder to and at a separate or suspense account to the credit of me or of such other person or persons or transaction if any as it shall think fit without any intermediate obligation on the part of the Bank to apply the same or any part thereof in or towards the discharge of the money owing as aforesaid or any intermediate right to the Customer or prove against his estate in competition with or so as to diminish any dividend or other advantage that would or might come to the Bank or to treat the liability of the Customer as diminished.

9. I have not taken in respect of the liability hereby undertaken by me on behalf of the Customer and I will not take from the Customer either directly or indirectly without the consent of the Bank any promissory note bill or exchange mortgage charge or other counter-security whether merely personal or involving a charge on any property whatsoever of the Customer whereby I or any person claiming through me by indorsement assignment or otherwise would

PLAINTIFFS'
EXHIBITS

P 1A

Guarantee of
Catherine Kong
dated 24th
April 1973
(continued)

or might on the bankruptcy or insolvency of the Customer and to the prejudice of the Bank increase the proofs in such bankruptcy or insolvency or diminish the property distributable amongst the creditors of the Customer. And as regards any such counter-security as aforesaid which I may have taken or may take with such consent as aforesaid the counter-security shall be a security to the Bank for the fulfilment of my obligations hereunder and shall be forthwith deposited by me with the Bank for that purpose. 10

10. The Bank shall so long as any money remains due and unpaid hereunder have a lien on all securities belonging to me now or hereafter held by the Bank and on all money now or hereafter standing to my credit with the Bank on any current or other account.

11. For purposes of this guarantee, the singular includes the plural and vice versa.

12. If the name of the Customer hereinbefore inserted is that either of a firm or of a limited company or other corporation or of any committee or association or other unincorporated body any of the provisions hereinbefore contained which are primarily and liberally applicable to the case of a single and individual customer only shall be construed and take effect so as to give the Bank hereunder a guarantee for the money owing from that firm and every member thereof or from that limited company or corporation or committee or association or other unincorporated body as identical or analogous as may be with or to that which would have been given for the money owing from a single individual if the Customer had been a single individual and any money shall be deemed to be so owing notwithstanding any defect informality or insufficiency in the borrowing powers of the Customer or in the exercise thereof which might be a defence as between the Customer and the Bank. In the case of a firm this guarantee shall be deemed to be a continuing guarantee of all money owing on any such account as hereinbefore mentioned from the person or persons carrying on business in the name of or in succession to the firm or from any one or more of such persons although by death retirement or admission of partners or other causes the constitution of the firm may have been in part or wholly varied. In the case of a limited company or other corporation any reference to bankruptcy shall be deemed to be a reference to liquidation or other analogous proceeding and the money owing as 20
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aforesaid and hereby guaranteed shall be deemed to include any money owing in respect of debentures or debenture stock of the limited company or other corporation held by or on behalf of the Bank.

PLAINTIFFS'
EXHIBITS

P 1A

Guarantee of
Catherine Kong
dated 24th
April 1973

(continued)

13. This guarantee shall be in addition to and not in substitution for any other guarantee for the Customer given by me to the Bank.

10 14. Any notice or demand hereunder shall be deemed to have been duly given to me or my legal personal representatives by sending the same by post addressed to me or my legal personal representatives at the address hereunder written and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank and such notice or demand shall be deemed to be received by me or my legal personal representatives twenty-four(24) hours after the posting thereof and shall be
20 sufficient if signed by any officer of the Bank or the Bank's Solicitors and in providing such service it shall be sufficient to prove that the letter containing the demand was properly addressed and put into the Post Office.

30 15. I waive in the Bank's favour all or any of my rights against the Bank or the Customer so far as may be necessary to give effect to any of the provisions of this guarantee and I agree that this guarantee shall be enforceable notwithstanding any change in the name of the Bank and that it shall enure for the benefit of any banking company with which the Bank may become amalgamated and to which the Bank shall assign it.

Dated the 24th day of April 1973

WITNESSES:

Name: Thiam Beng

Address:

Signature:

40 Signature of
Guarantor:

Name: Mrs.Catherine Kong
nee Ho Hoi Yook

Address: 11 Watten Heights
Watten Estate,
Singapore 11

PLAINTIFFS'
EXHIBITS

PLAINTIFFS' EXHIBITS

P 2

P 2
Guarantee by
Fourth
Defendant
dated 18th
April 1974

GUARANTEE BY FOURTH DEFENDANT
dated 18th April 1974

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH
49 ROBINSON ROAD
SINGAPORE 1

1. In consideration of The First National Bank of Chicago (hereinafter called the Bank which expression shall where the context so admits include the Bank's successors and assigns) at our request making or continuing advances or otherwise giving credit or affording banking facilities for so long as the Bank may think fit to M/s How Lee Realty (Pte) Ltd. of 7th Floor, OUE Building, Collyer Quay, Singapore 1 (hereinafter called the Customer) either alone or jointly with any other person or persons I the undersigned Tan Lai Wah of 122-A Cecil Street, Singapore 1 HEREBY GUARANTEE on demand in writing being made to me to pay and satisfy to the Bank all sums of money which are now or shall at any time be owing to the Bank anywhere on any account whatsoever whether from the Customer solely or from the Customer jointly with any other person or persons or from any firm in which the Customer may be a partner including the amount of notes or bills discounted or paid and other loans credits or advances made to or for the accommodation or at the request either of the Customer solely or jointly or of any such firm as aforesaid or for any money for which the Customer may be liable as surety or in any way whatsoever together with in all the cases aforesaid all interest discount and other banker's charges including legal charges occasioned by or incident to this or any other security held by or offered to the Bank for the same indebtedness or by or to the enforcement of any such security. 10
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2. This guarantee shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or any part of any sum or sums of money owing as aforesaid but shall be a continuing security and shall extend to cover any sum or sums of money which shall for the time being constitute the balance due from the Customer to the Bank upon any such

account as hereinbefore mentioned.

PLAINTIFFS'
EXHIBITS

P 2

Guarantee by
Fourth
Defendant
dated 18th
April 1974
(continued)

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3. This guarantee shall be binding as a continuing security on me my executors administrators and legal representatives until the expiration of three (3) calendar months after I or in case of my dying or becoming under disability my executors administrators or legal representatives shall have given to the Bank notice in writing to discontinue and determine it.

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4. In the event of this guarantee ceasing from any cause whatsoever to be binding as a continuing security on me my executors administrators or legal representatives the Bank shall be at liberty without thereby affecting its rights hereunder either to open a fresh account or accounts or to continue any existing account with the Customer and no money paid from time to time into any such account or accounts by or on behalf the Customer shall on settlement of any claim in respect of this guarantee be appropriated towards or have the effect of payment of any part of money due from the Customer at the date when the guarantee is determined.

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5. A certificate by an officer of the Bank as to the money and liabilities for the time being due and remaining or incurred to the Bank from or by the Customer shall be conclusive evidence in any legal proceedings against me my executors administrators and legal representatives in all courts of law and elsewhere.

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6. The Bank shall be at liberty without any further consent from me and without thereby affecting its rights against me hereunder at any time to determine enlarge or vary any credit to the Customer to vary exchange abstain from perfecting or release any other securities held or to be held by the Bank for or on account of the monies intended to be hereby secured or any part thereof to renew bills and promissory notes in any manner and to compound with give time for payment to accept compositions from and make any other arrangements with the Customer or any obligants on bills notes or other securities held or to be held by the Bank for and on behalf of the Customer.

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7. This guarantee shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by the Bank for all or any part

PLAINTIFFS'
EXHIBITS

P 2

Guarantee by
Fourth
Defendant
dated 18th
April 1974
(continued)

of the money hereby guaranteed nor shall such collateral or other security or any lien to which the Bank may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the monies hereby secured be in anywise prejudiced or affected by this present guarantee. And the Bank shall have full power at its discretion to give time for payment to or make any other arrangement with any such other person or persons without prejudice to this present guarantee or any liability hereunder. And all money received by the Bank from me or the Customer or any person or persons liable to pay the same may be applied by the Bank to any account or item of account or to any transaction to which the same may be applicable. 10

8. This guarantee shall be applicable to the ultimate balance that may become due to the Bank and until repayment of such balance I will not be entitled as against the Bank to any right of proof in bankruptcy or insolvency of the Customer or other right of a surety discharging his liability in respect of the principal debt unless and until the ultimate balance shall have first been completely discharged and satisfied. 20

And further for the purpose of enabling the Bank to sue the Customer or prove against his estate for the whole of the money owing as aforesaid or to preserve intact the liability of any other part the Bank may at any time place and keep for such time as it may think prudent any money received recovered or realised hereunder to and at a separate or suspense account to the credit of me or of such other person or persons or transaction if any as it shall think fit without any intermediate obligation on the part of the Bank to apply the same or any part thereof in or towards the discharge of the money owing as aforesaid or any intermediate right to the Customer or prove against his estate in competition with or so as to diminish any dividend or other advantage that would or might come to the Bank or to treat the liability of the Customer as diminished. 30 40

9. I have not taken in respect of the liability hereby undertaken by me on behalf of the Customer and I will not take from the Customer either directly or indirectly without the consent of the Bank any promissory note bill of exchange mortgage charge or other counter-security whether merely personal or involving a charge on any 50

property whatsoever of the Customer whereby I or any person claiming through me by indorsement assignment or otherwise would or might on the bankruptcy or insolvency of the Customer and to the prejudice of the Bank increase the proofs in such bankruptcy or insolvency or diminish the property distributable amongst the creditors of the Customer. And as regards any such counter-security as aforesaid which I may have taken or may take with such consent as aforesaid the counter-security shall be a security to the Bank for the fulfilment of my obligations hereunder and shall be forthwith deposited by me with the Bank for that purpose.

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10. The Bank shall so long as any money remains due and unpaid hereunder have a lien on all securities belonging to me now or hereafter held by the Bank and on all money now or hereafter standing to my credit with the Bank on any current or other account.

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11. For purposes of this guarantee, the singular includes the plural and vice versa..

12. If the name of the Customer hereinbefore inserted is that either of a firm or of a limited company or other corporation or of any committee or association or other unincorporated body any of the provisions hereinbefore contained which are primarily and liberally applicable to the case of a single and individual customer only shall be construed and take effect so as to give the Bank hereunder a guarantee for the money owing from that firm and every member thereof or from that limited company or corporation or committee or association or other unincorporated body as identical or analogous as may be with or to that which would have been given for the money owing from a single individual if the Customer had been a single individual and any money shall be deemed to be so owing notwithstanding any defect informality or insufficiency in the borrowing powers of the Customer or in the exercise thereof which might be a defence as between the Customer and the Bank. In the case of a firm this guarantee shall be deemed to be a continuing guarantee of all money owing on any such account as hereinbefore mentioned from the person or persons carrying on business in the name of or in succession to the firm or from any one or more of such persons although by death retirement or admission of partners or other causes the constitution of the firm

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PLAINTIFFS'
EXHIBITS

P 2

Guarantee by
Fourth
Defendant
dated 18th
April 1974
(continued)

PLAINTIFFS'
EXHIBITS

P 2

Guarantee by
Fourth
Defendant
dated 18th
April 1974
(continued)

may have been in part or wholly varied. In the case of a limited company or other corporation any reference to bankruptcy shall be deemed to be a reference to liquidation or other analogous proceeding and the money owing as aforesaid and hereby guaranteed shall be deemed to include any money owing in respect of debentures or debenture stock of the limited company or other corporation held by or on behalf of the Bank.

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13. This guarantee shall be in addition to and not in substitution for any other guarantee for the Customer given by me to the Bank.

14. Any notice or demand hereunder shall be deemed to have been duly given to me or my legal personal representatives by sending the same by post addressed to me or my legal personal representatives at the address hereunder written and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank and such notice or demand shall be deemed to be received by me or my legal personal representatives twenty-four (24) hours after the posting thereof and shall be sufficient if signed by any officer of the Bank or the Bank's Solicitors and in providing such service it shall be sufficient to prove that the letter containing the demand was properly addressed and put into the Post Office.

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30

15. I waive in the Bank's favour all or any of my rights against the Bank or the Customer so far as may be necessary to give effect to any of the provisions of this guarantee and I agree that this guarantee shall be enforceable notwithstanding any change in the name of the Bank and that it shall enure for the benefit of any banking company with which the Bank may become amalgamated and to which the Bank shall assign it.

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Dated the 18th day of April 1974

WITNESSES:

Name: LIM SIN
Advocate & Solicitor,
Singapore

Address:

Signature: Lim Sin

Signature of
Guarantor:

Name: Tan Lai Wah
Address: 122-A Cecil Street,
Singapore 1

PLAINTIFFS'
EXHIBITS

P 2

Guarantee by
Fourth
Defendant
dated 18th
April 1974
(continued)

P 2A

MR. LIM'S HANDWRITTEN NOTE
TO MR. KONG

P 2A

Mr Lim's
handwritten
note to Mr.
Kong

From The Desk of.

MATTHEW LIM

10 Edward,

Please have this witnessed by a solicitor
(Thiam Beng or Lim Sin)

Sd: M.Lim

EXHIBIT P2A
S.1464/77
Date 12/3/80

FORM 49
Section 141 A

THE COMPANIES ACT, (CHAPTER 185.)

RETURN GIVING PARTICULARS IN REGISTER OF DIRECTORS, MANAGERS AND SECRETARIES, AND CHANGES OF PARTICULARS

How Lee Realty Pte. ¹⁹⁷⁶ LIMITED

Directors

Present Names	Former Names	Address	Business Occupation (if any)	Particulars of other Directorships	Nature of Appointment or Change & Relevant Date	Identity Card No. Citizenship No. Passport No.	Nationality
Edward Kong Kee Yee	-	11 Watten Heights, Watten Estates, Singapore 11	Director	-	-	I.C. 0905259/C	Singapore Citizen
Mrs. Katherine Kong nee Mdm. Ho Hoi Yook	-	- do -	Director	-	-	I.C. 0716870/B	Singapore Citizen
Mdm. Tan Lai Wah	Tan Yen Wah	33 One Tree Hill, Singapore	Property Owner	-	Appointed on 7th June 1976	I.C. 1062941/A	Singapore Citizen

Managers and Secretaries

Name in Companies	Full Name	Address	Other Occupation (if any)	Nature of appointment or change and relevant date	Identity Card No. Citizenship No. Passport No.
Managers					
Secretaries	Mrs. Katherine Kong nee Mdm. Ho Hoi Yook	11 Watten Heights, Watten Estates, Singapore 11	Director	-	I.C.No: C216870/

EXHIBIT P3

216

Filed the 2nd day of August 1976

[Handwritten signature]

P3
S.1464/77
24/10/79

Section 141 (6)

RETURN GIVING PARTICULARS IN REGISTER OF DIRECTORS, MANAGERS AND SECRETARIES, AND CHANGES OF PARTICULARS

FOR THE YEAR ENDING 31/12/75

75/75

Directors

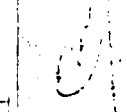
Present Name	Former Name	Address	Business Occupation (if any)	Particulars of other Directorships	Nature of Appointment or Change & Relevant Date	Identity Card No. (Citizenship No. / Passport No.)	Nationality
Mrs. Catherine Hong Yee	-	11 Watten Heights Watten Estate Singapore 11	Director	-	Appointed on 23/4/75	0005259	Singapore Citizen
Mrs. Ho Hoi Yook	-	11 Watten Heights, Watten Estate, Singapore 11	Director	-	Appointed on 23/4/75	0915870	Singapore Citizen
Mrs. Ho Hoi Yook	-	55-1 Collyer Road, Singapore	Director	-	Resigned on 23/4/75	1052541	Singapore Citizen
Mrs. Ho Hoi Yook	-	13, Lorong, 27-1, Selegie Road, Singapore	Advocate Solicitor	-	Resigned on 23/4/75	1011505	Singapore Citizen
Mrs. Ho Hoi Yook	-	50, Brascoe Road, Singapore	Advocate Solicitor	-	Resigned on 23/4/75	1002520	Singapore Citizen

Managers and Secretaries

Office in Company	Full Name	Address	Other Occupation (if any)	Nature of appointment or change and relevant date	Identity Card No. (Citizenship No. / Passport No.)
Managers	-	-	-	-	-
Secretaries	Mrs. Catherine Hong nee Mdm Ho Hoi Yook	11 Watten Heights, Watten Estate, Singapore 11	Director	Appointed on 23/4/75	0915870

Dated this 20th day of April 1975.

Director
Secretary

FORM 49

THE COMPANIES ACT (CAP. 185)

P3

Particulars of Registration of
How Lee Realty (continued)

Section 141(6)

RETURN GIVING PARTICULARS IN REGISTER OF DIRECTORS,
MANAGERS AND SECRETARIES, AND CHANGES OF PARTICULARS

HOW LEE REALTY PTE. LTD.

D I R E C T O R S

Name	Address	Occupation	Particulars of Other Directorships	Nature of Appointment or Change & Relevant Date	Identity No.	Nationality
NG AH BA alias NG SIOW HOW	1020, Serangoon Road, Singapore	Company Director	Hong Leck Corpn. Pte. Ltd.; Compax Trading Co. Pte. Ltd; First Asia Property Pte. Ltd.	Resigned (2.2.1973)	1097157	Singapore Citizen
LEE AH MOY (Madam)	1020, Serangoon Road, Singapore	Merchant		Resigned (2.2.1973)	0197281	Singapore Citizen
TAN LAI WAH (Madam)	33J, Oxley Road Singapore.	Company Director	Progress Realty Pte. Ltd; Queen Real Estate Agents	Appointed (2.2.1973)	1062941	Singapore Citizen

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Particulars of Registration of
How Lee Realty (continued)

Name	Address	Occupation	Particulars of Other Directorships	Nature of Appointment or Change & Relevant Date	Identity Card No.	Nationality
KHOR THIAM BENG	18, Lorong 27A, Geylang, Singapore, 14.	Advocate & Solicitor	-	Appointed (2.2.1973)	1091625	Singapore Citizen
LIM SIN	50 Braddell Road Singapore, 13	Advocate & Solicitor	-	Appointed (2.2.1973)	1008620	Singapore Citizen

Dated the 28th day of May, 1973

Sd: Khor Thiam Beng
DIRECTOR

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1975

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VALUATION REPORT OF VICTOR
& MENDEZ

VICTOR & MENDEZ (PTE) LTD.
Auctioneers, Appraisers, Cargo Surveyors,
Claim Adjusters, Trustees, Administrators
Receivers, Attorney & Agents

39-A Telok Ayer Street
Singapore 1
Telephones: 94844, 94846,
78914, 983416

10

Cable: "MENVICT" Singapore
Victor Wee F.E.A.E., F.R.E.V.A.
A. Mendez, F.E.A.E. M.Inst. P.L.A
Chan Tham Choon, A.R.E.V.A.(S)

Ref: V/30/75

12th April 1975

R E P O R T & V A L U A T I O N

in respect of

Lots 107-85, 107-86, 107-87, 107-88 and
107-89 T.S.XXIV

20

together with premises situate and known
as No.10 Tomlinson Road SINGAPORE

DESCRIPTION

The above properties comprise three faces
of continuous lands and two narrow strips which
together form a fairly rectangular shaped plot
bounded on the North by a concrete canal, on
the East by Tomlinson Road, on the South by
Lot 107-3 T.S.XXIV, and on the West by Ellis
Road.

30

An old pre-war dilapidated single storey
bungalow known as No.10 Tomlinson Road stands
on part of Lot 107-87 T.S.XXIV. It is
constructed of brick walls and Chinese tile
roof with its main portion raised on low brick
piers and the kitchen with stores at rear
located at ground level. Another single storey
dilapidated outbuilding formerly used as a
garage and quarters stands on part of Lot 107-85
T.S. XXIV. There is a caretaker living in the
main building but the abovementioned outbuilding
is at present unoccupied.

40

The abovementioned lands are unfenced. They are at road level but a small portion is slightly below road level. They are well drained and dry.

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Mendez

12th April
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(continued)

Water, electricity, gas services including modern sanitation are available.

SITUATION

10 The properties are situated about 135 feet from the junction of Tanglin Road and Tomlinson Road, and are approximately 3 miles from the city centre.

ZONING

The properties are zoned in the Master Plan as residential.

TITLE

20 No.10 Tomlinson Road,
T.S. : XXIV
Lots : 107-85, 107-86, 107-87, 107-88
and 107-89
Areas : 7,894 sq.ft., 9,817 sq.ft.,
20,543 sq.ft. and 2,269 sq.ft.
(Lots 107-88 and 107-89)
respectively

Registered
Owners : Tomlinson Development (Pte) Ltd.

SALES

30 There are no sales of comparable properties in Tomlinson Road in the last few years but the following record of sale of property in the vicinity gives some idea of the trend of property value in this locality :-

No.302 Orchard Road, area : 17,745 sq.ft.,
was sold on 2.6.72 for \$4,000,000/- (reflecting
\$225.41 per sq.ft.)

COMMENTS

40 In view of the recent Government announcement to redevelop the lands in the vicinity of Tanglin Post Office and Ellis Road as a tourist orientated project including shops there seems to be a good prospect of redeveloping the subject properties also for commercial purposes. In fact, the site occupied by Raffles Village directly opposite the subject properties has

PLAINTIFFS'
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Valuation
Report of
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Mendez
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1975
(continued)

already been used for commercial purposes for several years.

As far as we are aware the development of the new road running parallel to Orchard Road to be known as Orchard Boulevard will result in improved amenities so far as the subject properties are concerned in that they will ultimately have an additional wide road frontage besides the existing frontages to Tomlinson Road and Ellis Road. We also understand that in the near future Tomlinson Road itself will be widened to facilitate movement of traffic in the vicinity. 10

We are informed that the intending purchasers of the subject properties will be making an approach to the owners of Lot 107-5 T.S.XXIV which is the site of a block of postwar 3-storey buildings known as Nos.91 to 101 (odd) Tanglin Road for the purposes of obtaining their approval to submit a joint proposal to the relevant authorities involving redevelopment of their property with the subject properties so as to form one large potential redevelopment site with the added advantage of direct frontage to Tanglin Road, subject of course, to some kind of mutual arrangement as regards the benefits to be derived from such joint project. 20

In arriving at our basis of valuation we have fully considered the abovementioned aspects and also the assumption that such approval for joint redevelopment will be granted. 30

VALUATION

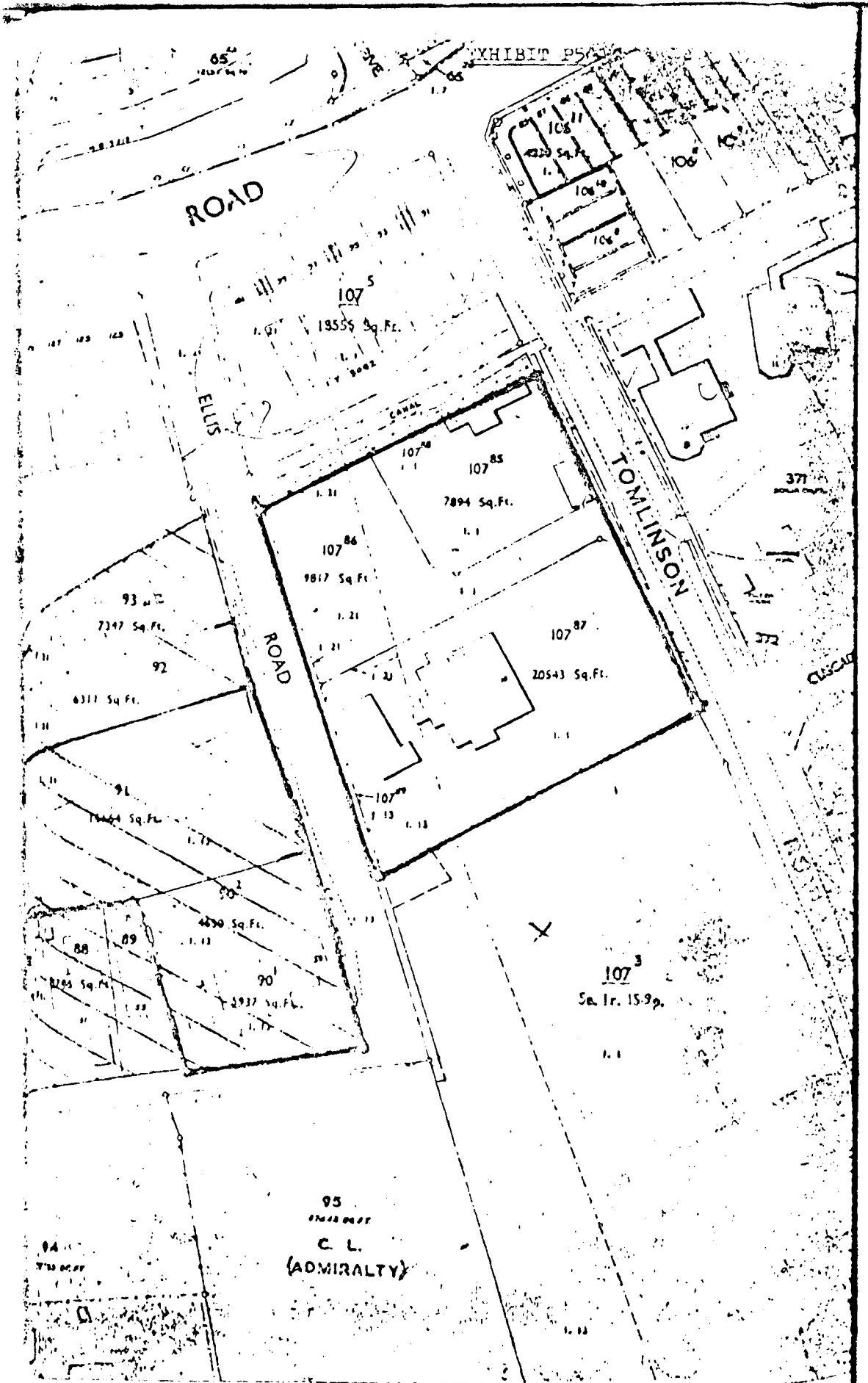
In view of the foregoing, and taking into consideration the factors mentioned above we are of the opinion that Lots 107-85, 107-86, 107-87, 107-88 and 107-89 T.S.XXIV together with No.10 Tomlinson Road thereon are worth \$4,862,760/- (Dollars Four Million Eight Hundred and Sixty Two Thousand Seven hundred and Sixty Only). 40

VICTOR & MENDEZ (PTE)LTD.

Sd: V. Wee

VICTOR WEE F.R.E.V.A. F.E.A.E
(Ldn.)

CTC/aa



PLAINTIFFS'
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P 8
Copy Mortgage
executed by
How Lee Realty
dated 2nd May
1973

COPY MORTGAGE EXECUTED BY HOW
LEE REALTY dated 2nd May 1973

THIS INDENTURE OF MORTGAGE made the 2nd day of May One thousand nine hundred and seventy-three (1973) Between HOW LEE REALTY PTE.LIMITED a company incorporated in the Republic of Singapore and having its registered office at 3rd Floor, Maxwell House, Maxwell Road, Singapore 10 (hereinafter called "the Mortgagor") of the first part, EDWARD KONG KEE YEE and CATHERINE KONG nee HO HOI YOOK both of No.11 Watten Heights, Singapore, Company Director and Married Woman respectively (hereinafter called "the Sureties") of the second part and THE FIRST NATIONAL BANK OF CHICAGO a banking corporation incorporated in the State of Illinois under the National Bank Act 1863 and having a place of business at No.49 Robinson Road, Singapore (hereinafer 20 called "the Bank") of the third part.

WHEREAS :-

1. The Mortgagor has opened or is about to open an account current in the Mortgagor's own name with the Bank (hereinafter referred to as "the said Account").
2. The Mortgagor is seised for an estate in fee simple in possession free from incumbrances of the land and premises described in the Schedule hereto. 30
3. At the joint request of the Mortgagor and the Sureties the Bank has made advances to the Mortgagor by permitting the said Account to be overdrawn AND also agreed that the Bank may make further advances by permitting the said Account to be further overdrawn or may make advances by way of overdraft on any new or other account which the Mortgagor either alone or jointly with any other person may open or have with the Bank or otherwise may give credit or banking facilities or grant other accommodation to the Mortgagor either alone or jointly with any other person up to the limit of DOLLARS TWO MILLION FIVE HUNDRED THOUSAND (\$2,500,000-00) for principal moneys with liberty to the Bank to increase such limit up to such further or additional amount as may be fixed by the Bank at its absolute discretion 40

4. It has been agreed between the Mortgagor the Sureties and the Bank that all moneys which are now owing or which shall hereafter be owing or remain unpaid to the Bank on the general balance of the said Account or on any other account or otherwise from the Mortgagor either alone or jointly with any other person together with interest shall be secured to the Bank in manner hereinafter appearing

PLAINTIFFS'
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Copy Mortgage
executed by
How Lee Realty
dated 2nd May
1973

(continued)

10 NOW THIS INDENTURE WITNESSETH as follows:-

1. In pursuance of the said agreement and in consideration of the premises the Mortgagor and the Sureties HEREBY JOINTLY AND SEVERALLY COVENANT with the Bank on demand in writing made to the Mortgagor TO PAY to the Bank -

20 (a) the balance which at the date of such demand shall be owing or remain unpaid to the Bank by the Mortgagor on the said Account or by the Mortgagor either alone or jointly with any other person on any account which the Mortgagor either alone or jointly with any other person may have with the Bank or otherwise in any manner howsoever and whether in respect of moneys advanced or paid to or for the use of the Mortgagor either alone or jointly with any other person or in respect of cheques bills notes or other negotiable instruments signed drawn accepted or indorsed by or on behalf of the Mortgagor either alone or jointly with any other person and discounted paid or held by the Bank in the course of business or otherwise or in respect of letters of credit trust receipts guarantee indemnities or other documents or instruments signed by the Mortgagor either alone or jointly with any other person and held by the Bank or in respect of any money or liability whatsoever which the Mortgagor either alone or jointly with any other person shall be liable to the Bank in any manner howsoever and whether as principal or as surety

30
40
50 (b) Interest on daily balances on or in respect of the principal moneys hereinbefore covenanted to be paid or any part thereof as shall from time to time be owing or remain unpaid at the rate of two and a half (2½%) per

PLAINTIFFS'
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(continued)

centum per annum above the prime rate for advances laid down by the Association of Banks in Malaysia-Singapore or at such other rate as may from time to time be fixed by the Bank with monthly rests and

- (c) all usual and customary commission discount and banker's charges and also stamp duty legal costs charges and expenses incurred by the Bank in relation to the preparation execution completion and registration of these presents and also in relation to the realisation or enforcement of this security such legal costs charges and expenses to be paid on a solicitor and own client basis. 10

AND ALSO if when the said Account or any other account hereinbefore mentioned shall be closed or shall cease to be current a balance be owing or remain unpaid to the Bank TO PAY interest on such balance at the rate of two and a half (2½%) per centum per annum above the prime rate for advances laid down by the Association of Banks in Malaysia-Singapore or at such other rate as may from time to time be fixed by the Bank with monthly rests from the date of such demand being made until full payment is received by the Bank both after as well as before judgment shall have been obtained in respect thereof. 20 30

2. For the consideration aforesaid the Mortgagor HEREBY CONVEYS unto the Bank ALL AND SINGULAR the land and premises described in the Schedule hereto TO HOLD the same unto the Bank in fee simple subject to the proviso for redemption next hereinafter contained.

3. PROVIDED ALWAYS that if upon such demand as aforesaid or without demand all moneys hereinbefore covenanted to be paid or hereby secured or with which the land and premises described in the Schedule hereto (hereinafter referred to as "the Mortgaged Property") stand charged shall be paid to the Bank then the Bank will at any time thereafter upon the request and at the cost of the Mortgagor reconvey the Mortgaged Property to the Mortgagor or as the Mortgagor shall direct. 40

4. The Mortgagor and the Sureties HEREBY JOINTLY AND SEVERALLY COVENANT with the Bank that at all times during the continuance of this security or so long as any money hereinbefore 50

covenanted to be paid and hereby secured or any part thereof shall remain owing or unpaid the Mortgagor and the Sureties or either of them will -

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(continued)

10

(i) PAY all rates taxes assessments and all sums lawfully chargeable and payable in respect of the Mortgaged Property as and when the same shall become payable or within ONE MONTH thereafter and on demand produce to the Bank the receipt therefor and in default of the production of such receipt as aforesaid it shall be lawful (but not obligatory) for the Bank to pay all such rates taxes assessments and all sums lawfully chargeable and payable in respect of the Mortgaged Property and thereupon the sums so paid by the Bank shall on demand be repaid to the Bank and until repayment shall be added to the principal moneys hereby secured and bear interest accordingly

20

30

(ii) KEEP all buildings and messuages now or hereafter erected on the Mortgaged Property insured in the name of the Bank against loss or damage by fire or such other risks and contingencies as the Bank may require in the full insurable value thereof in an insurance company approved by the Bank and on demand to deliver to the Bank the policy of such insurance and the receipt for every premium payable in respect thereof and in default of such delivery or production it shall be lawful (but not obligatory) for the Bank to effect the insurance aforesaid in such sum as the Bank shall think fit and all moneys paid by the Bank in respect of such insurance shall on demand be repaid to the Bank and until repayment shall be added to the principal moneys hereby secured and bear interest accordingly;

40

50

(iii) KEEP the Mortgaged Property in good and substantial repair and comply with all orders or notices served on the Mortgagor by any competent or other public or local authority in respect of repairs sanitary installation sewerage road-making or otherwise and if the Mortgagor, the Sureties or

PLAINTIFFS'
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(continued)

- either of them shall neglect to do such repair or comply with such order or notice the Bank may in its discretion enter the Mortgaged Property from time to time in order to repair the Mortgaged Property or any building thereon or access road thereto or to do all things necessary to comply with such order or notice without thereby becoming liable as mortgagee in possession and the expenses of so doing shall on demand be repaid to the Bank and until repayment be added to the principal moneys hereby secured and bear interest accordingly and 10
- (iv) OBSERVE AND PERFORM all covenants and conditions for the time being affecting the Mortgaged Property and if the Mortgagor shall commit any breach of the same or any of them it shall be lawful (but not obligatory) for the Bank to take such steps as it may be advised to remedy any such breach on the part of the Mortgagor and any sum of money or expenses which the Bank may pay or incur for the purpose aforesaid shall on demand be repaid to the Bank and until repayment be added to the principal moneys hereby secured and bear interest accordingly 20
5. PROVIDED ALWAYS and it is hereby agreed and declared by and between the parties hereto as follows :- 30
- (a) Any demand for payment or any other demand or notice under this security may be made by any Manager Assistant Manager Secretary or other officer for the time being of the Bank or by any person or firm for the time being acting as solicitor or solicitors for the Bank by letter sent by registered post addressed to the Mortgagor, the Sureties or either of them at their respective addresses hereinbefore specified or at their respective last known place of business or abode and the provisions of Section 72 of the Conveyancing and Law of Property Act (Chapter 268) (hereinafter referred to as "the said Act") shall apply to every such demand or notice. 40 50

(b) These presents and the Mortgaged Property shall be and remain a continuing security for the payment to the Bank on demand of the advances which the Bank has already made and any advances which the Bank may hereafter make to the Mortgagor either alone or jointly with any other person and whether as principal or as surety and for any balance which may be owing or remain unpaid on the said Account or on any other account whatsoever to the Bank by the Mortgagor either alone or jointly with any other person together with interest as hereinbefore provided

PLAINTIFFS'
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Copy Mortgage
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(continued)

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(c) Nothing herein contained shall prejudice or affect any lien to which the Bank is by law entitled or any other security or securities which the Bank may now or at any time hereafter hold for or on account of the moneys hereby secured or any part thereof

20

(d) The Mortgagor and the Sureties shall be jointly and severally liable to the Bank and the Mortgaged Property shall be security to the Bank not only for all moneys actually debited to the said Account or to any other account which the Mortgagor either alone or jointly with any other person may have with the Bank at the time when demand shall be made for payment but also for all moneys outstanding and not immediately payable for which the Mortgagor either alone or jointly with any other person is or are absolutely or contingently liable to the Bank in any manner howsoever

30

40

(e) If any sum or sums of money hereinbefore covenanted to be paid or hereby secured shall not be paid on the due date thereof the Bank shall be at liberty forthwith or at any time thereafter to debit the same to the said Account or to any account of the Mortgagor then current without prejudice to the rights and remedies of the Bank against the Borrower and any other party liable to the Bank for the same and also without prejudice to the rights of the Bank to realise any security or

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(continued)

goods held by the Bank.

- (f) The giving of time to any person or party liable to the Bank in respect of the moneys hereby secured or any part thereof or the neglect or forbearance of the Bank in requiring or enforcing payment of such money or any part thereof or in realising any security held by the Bank or any other variation of the provisions of these presents or any other dealing whatsoever between the Bank and any such person or party shall not in any way prejudice or affect or release this security or the several covenants of the Mortgagor and the Sureties contained in these presents or the liability of the Mortgagor hereunder 10
- (g) Although as between themselves the Mortgagor the Sureties and any other person or party liable to the Bank jointly with the Mortgagor the Sureties or either of them one party may be surety for the other party or parties yet as between them and each of them and the Bank they and each of them shall be principal debtor or debtors jointly and severally to the Bank and they and each of them and the Mortgaged Property shall not in any event whatever be released by time being given or extended or by indulgence being granted to or by compromise composition or other arrangement being made with any one or more of them or with any other person or party liable to the Bank or in any manner whatsoever 20
30
- (h) The Bank shall be at liberty without thereby affecting its rights hereunder at any time - 40
- (i) to determine or vary any credit to the Mortgagor and to vary the rate of interest payable for or in respect of the moneys hereby secured or any part thereof;
- (ii) to vary exchange or release any security held or to be held by the Bank for or on account of the moneys hereby secured or any part thereof; and 50

(iii) to renew bills or promissory notes in any manner and to compound with give time for payment accept composition from and make any other arrangements with any person or party liable to the Bank in respect of bills notes or other securities held or to be held by the Bank for the moneys hereby secured or any part thereof

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(continued)

10

(i) This security is a continuing security and shall continue to be valid and binding for all purposes notwithstanding any account ceasing to be current or any settlement of account or fluctuation in the amount for the time being owing to the Bank or the existence of any credit balance at any time and also notwithstanding any change by amalgamation consolidation or otherwise which may be made in the constitution of the company by which the business of the Mortgagor for the time being be carried on or any other matter or thing whatsoever

20

(j) Where any money hereby secured is or shall be further secured by any bill of exchange note or other instrument reserving a higher rate of interest to be paid in respect thereof than the rate hereinbefore covenanted to be paid such higher rate of interest shall be payable in respect of such moneys and nothing contained or implied herein shall affect the right of the Bank to enforce and recover payment of such higher rate of interest or (as the case may be) the difference between such higher rate and the rate which shall have been paid hereunder and the Bank shall be at liberty at any time without affecting its rights hereunder to renew any such bill of exchange or note or instrument

30

40

(k) The interest on any principal money for the time being hereby secured including capitalised interest shall at the end of each calendar month be capitalised and added for all purposes to the principal sum then owing and shall thenceforth bear interest at the rate hereinbefore covenanted to be paid and be secured and payable accordingly

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(continued)

and all covenants and conditions
contained in or implied by these
presents and all powers and remedies
conferred by law or by these presents
and all rules of law or equity in
relation to the said principal moneys
and interest shall equally apply to
such capitalised interest and to
interest on such arrears

- (1) For the purpose of ascertaining 10
whether the limit of the principal
money intended to be hereby secured
has been exceeded or not all accumu-
lated and capitalised interest shall
be deemed to be interest and not
principal money
- (m) At any time on receiving notice that the 20
mortgagor has incumbered the Mortgaged
Property or any part thereof or in the
event of this security ceasing from any
cause to be a continuing security on the
Mortgaged Property the Bank may open
a new account or new accounts with
the Mortgagor either alone or jointly
with any other person and no money
paid or carried to the credit of such
new account or accounts shall on the
settlement of any claim in respect of
this security be appropriated towards 30
or have the effect of discharging any
part of the money owing to the Bank
under this security at the date of such
new account or accunts being opened
- (n) Neither the Mortgagor nor the Sureties 40
shall be entitled as against the Bank
to any right of proof in the bankruptcy
of any person or party or in the winding
up of any company liable to the Bank or
any other right in respect of the
moneys hereby secured or any part there-
of until and unless the whole of the
moneys owing to the Bank and interest
shall have first been fully and
completely discharged and satisfied
- (o) All moneys received by the Bank from 50
any person or estate capable of being
applied in reduction of the moneys
hereby secured shall be regarded for
all purposes as payments in gross
and if a receiving order shall be made
against any person liable to the Bank
or an order be made or an effective

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resolution be passed for the winding up of any company liable to the Bank the Bank may prove for the whole of the moneys then owing and no money received under such proof shall be considered as received in respect of this security but the full amount owing shall be payable until the Bank has received from all sources one hundred cents in the dollar and if the amount ultimately received by the Bank exceeds the amount of the ultimate balance owing to the Bank the excess only over such ultimate balance shall be repaid to the person or party on whose account the same shall have been received by the Bank.

20

(p) The Bank and its agents and workmen shall be at liberty at all reasonable times of the day to enter upon the Mortgaged Property or any part thereof to view the condition and state of repair thereof

30

(q) The Mortgagor hereby attorns and become tenant at will to the Bank of the Mortgaged Property or such part thereof as is now or shall hereafter be in the occupation of the Mortgagor at a peppercorn rent during such time as any money hereby secured shall remain owing on this security but nothing in this clause contained shall prevent the Bank from at any time entering into and taking possession of the Mortgaged Property and so determining the tenancy hereby created and neither the tenancy hereby created nor the receipt of the said rent shall render the Bank liable as a mortgagee in possession.

40

(r) The statutory power of leasing conferred on a mortgagor by the said Act shall not be exercisable by the Mortgagor without the previous consent in writing of the Bank

(s) The provisions of section 21(1) of the said Act shall not apply to these presents

50

(t) For the purpose of the power of sale and other powers implied herein by the said Act the whole of the moneys

PLAINTIFFS'
EXHIBITS

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Copy Mortgage
executed by
How Lee Realty
dated 2nd
May 1973
(continued)

- hereinbefore covenanted to be paid and hereby secured shall be deemed to have become due immediately after the execution of these presents and the said power of sale shall be exercisable after FOURTEEN (14) DAYS previous notice requiring payment in lieu of and in substitution of the three (3) months notice required by the said Act and such notice requiring payment shall be in writing and the provisions of clause (a) hereof shall apply thereto 10
- (u) The statutory power to appoint a receiver may be exercisable at any time after payment of any moneys hereby secured has been demanded in manner hereinbefore provided and default has been made for FOURTEEN (14) DAYS in paying the same 20
- (v) The Bank shall not be answerable for any involuntary loss happening in or about the exercise or execution of any power conferred upon the Bank by these presents or by the said Act
- (w) Nothing herein contained shall be deemed to render it obligatory upon the Bank at Law or in equity to make or to continue to make any advances or give any other accommodation to the Mortgagor 30
- (x) A certificate signed by an officer of the Bank as to the money or liability for the time being due or owing or incurred to the Bank from the Mortgagor or from any person liable to the Bank under this security may be adduced by the Bank and shall in that case be accepted by the Mortgagor as conclusive evidence that the balance or amount thereby appearing is due or owing to the Bank from the Mortgagor or the person liable as aforesaid 40
- (y) This security shall continue to be valid and binding for all purposes notwithstanding any change by amalgamation consolidation or otherwise which may be made in the constitution of the company by which the business 50

of the Bank for the time being be carried on and shall be available to the company carrying on that business for the time being

PLAINTIFFS'
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Copy Mortgage
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(continued)

(z) In these presents where the context admits -

(i) Words importing only the singular number include the plural number and vice versa;

10

(ii) Words importing the masculine gender include the feminine gender;

(iii) The expression "the Mortgagor" shall include the successors and assigns of the Mortgagor;

(iv) The expression "the Sureties" shall include the personal representatives of the Sureties

20

(v) The expression "the Bank" shall include the successors and assigns of the Bank.

IN WITNESS WHEREOF the Mortgagor has hereunto caused its Common Seal to be affixed and the Sureties have hereunto set their hands and seals the day and year first abovewritten

THE SCHEDULE ABOVE REFERRED TO

30

ALL those five pieces or parcels of land situate in the District of Tanglin in the Republic of Singapore estimated according to Government Resurvey to contain the respective areas of 7,894 square feet, 9,817 square feet, 20,543 square feet, 1,829 square feet and 440 square feet and marked respectively on the Government Resurvey Map as Lots 107-85, 107-86, 107-87, 107-88 and 107-89 of Town Subdivision XXIV which pieces of land form part of the lands comprised in Grant Nos. 1, 13 and 21 or some or one of them.

40

TOGETHER with the house erected thereon and known as No.10 Tomlinson Road, Singapore.

The Common Seal of HOW LEE)
REALTY PTE. LIMITED was) L.S.
hereunto affixed in the)
presence of :-)

Sd: E.K.K. Yee DIRECTOR
Sd: Catherine Kong SECRETARY

PLAINTIFFS'
EXHIBITS

P 8

Copy Mortgage
executed by
How Lee Realty
dated 2nd
May 1973

(continued)

SIGNED SEALED AND DELIVERED)
by the abovenamed SURETIES } Sd. E.K.K.Yee
in the presence of :- } Sd: Catherine Kong

Sd: J.C.Chen
Advocate & Solicitor
Singapore

I, JAMES CHRISTOPHER CHEN an Advocate and
Solicitor Supreme Court in the Republic of
Singapore practising in Singapore hereby
certify that on the 30th day of April, A.D.1973 10
the Common Seal of HOW LEE REALTY PTE. LIMITED
was duly affixed to the within written
instrument at Singapore in my presence in
accordance with the regulations of the said
Company (which regulations have been produced
and shown to me).

WITNESS my hand this 30th day of April,
1973.

Sd: J.C.Chen

On the 30th day of April, A.D.1973 20
before me JAMES CHRISTOPHER CHEN an Advocate
and Solicitor of the Supreme Court in the
Republic of Singapore practising in Singapore
personally appeared EDWARD KONG KEE YEE and
CATHERINE KONG nee HO HOI YOOK who of my own
personal knowledge I know to be the identical
persons whose names " (sd:) E.K.K.Yee
(sd:) Catherine Kong " are subscribed to the
within written instrument and acknowledged 30
that they had voluntarily executed this
instrument at Singapore.

WITNESS my hand.

Sd: J.C.Chen

Registered on the 8th May 1973
at 11.45 a.m. under the Lot Numbers
and Titles given in the Schedule
presented in Volume 1949 Page 1053
No.193

Sd:

Deputy Registrar of Deeds 40
Singapore.

PLAINTIFFS' MEMO RE HOW LEE
REALTY OF 1st November 1977

Plaintiffs'
memo re How
Lee Realty of
1st November
1977

SINGAPORE BRANCH

M E M O S H E E T

HOW LEE PTE LTD.

Address

Singapore

10 Madam Tan Lai Wah called at our office today
without an appointment. She is looking for
financing facility of S\$5 million for Mr. Ho
Kok Cheong, a developer of People's Park Complex,
for a construction project. According to her
the loan will be guaranteed by National Bank of
Brunei. In return she will get $\frac{1}{2}$ of 1% of the
loan raised and she will use the commission
which works out to be about S\$25,000 to repay
the bank as partial discharge of her liabilities
as a guarantor for How Lee Pte.Ltd. Pat Amick
20 told her that we are not going to have anymore
dealings with her as most of our loans connected
with her name are bad loans.

Madam Tan went into a defensive speech saying
that she had never done any mischief with
intentions to cause loss to the bank. She then
spoke of her past tussle with Edward Kong on
properties at Tomlinson Road and Ridley Park.

30 Garrett told her that all we are interested now
is to find out how she is going to meet her
obligations as a guarantor for the How Lee loan.
As usual she said she has nothing left and
through our patient prodding she told us that
all her properties have been disposed of in the
following manner :-

- 1) Shenton Way property had been taken over by
How Leng Tong (according to her is an owner
of the Cockpit Hotel) and in return he
paid up her mortgage liabilities to Chung
Khiaw Bank which was approx. S\$600,000.
- 40 2) Property at Ponggol had been acquired by
the government who compensated her with
S\$210,000 and this sum had gone to settle
her mortgage liability with Hong Leong
Finance.

PLAINTIFFS'
EXHIBITS

P 9

Plaintiffs'
memo re How
Lee Realty of
1st November
1977

(continued)

3) Property at One Tree Hill Road had been sold for S\$200,000 out of which approx. \$190,000 had been used to pay off her mortgage liabilities to Overseas Union Bank.

She again requested whether we could withhold bankruptcy action and allow her time to repay her obligations as guarantor for How Lee Pte. Ltd. We told her that the only way she could dissolve this action is to pay up her obligation as a guarantor. Again she went into the same story that she has no more property left and is now sharing a two-roomed housing board flat with her brother and occasionally she would stay with either one of her three daughters, the fourth daughter being in London. When she told us that one of her sons-in-law is Lim Sin, a solicitor (partner of Lim Sin & Thiam Beng) we asked her why she did not have him represent her in the pending legal suit, she said she knew which lawyer is good for her particular kind of case. When we asked how much she is to pay for her lawyer, Suppiah, she said he is giving her a free service.

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Before she left she gave us her Identity Card to record down her new address. Her IC No. 1062941(A) shows the new address as Block 112, 310-E, Commonwealth Crescent, Singapore 3 and she gave us the 3 telephone numbers where she could be contacted:- 370-586, 640-887 and 222-8866.

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P 10

Plaintiffs'
memo re How
Lee Realty of
19th September
1975

P 10

PLAINTIFFS' MEMO RE HOW LEE
REALTY OF 19th September 1975

M E M O R A N D U M

To: How Lee Realty Pte Ltd. File c.c.R.G.Donnelley
From: Matthew Lim K.Tancock

September 19 1975

Re: How Lee Realty Pte.Ltd.

40

Outstanding: S\$2,845,316.20 as at September 19
1975

Commitment: S\$2,500,000

Amount represented by interest as at 31 August 1975: about \$343,816.

PLAINTIFFS'
EXHIBITS

Security: First legal mortgage on 10 Tomlinson Road

P 10

Appraised Value: May 1974 S\$4,984,000
(on "mixed-use" basis)
August 1975 S\$1,418,305
(on existing use" basis)
S\$3,647,070
(on "mixed-use" basis)

Plaintiffs'
memo re How
Lee Realty of
19th September
1975

(continued)

10

Recent sales efforts for the property mortgaged have not been successful in reaching parties able to offer a price sufficient to pay our loan. Offers have been placed at no more than S\$1.5 million and these offers are predilated on its "existing use". It is our opinion that potential buyers of the property will request for planning approval that allows a "mixed-use" development together with the adjoining land owned by Kian Gwan (Singapore) Pte. Ltd., with the frontage along Tanglin Road.

20

Kian Gwan's selling price is still about \$4 million to \$4.5 million for their property. Madam Tan (a guarantor) is willing to risk 10% of the purchase price as earnest money so as to be able to submit plans for a "mixed-use" development on the property. She is now able to find this amount of about S\$400,000 if the proposed sale of another property of hers at Thomson Road goes through. This latter sale will give her a cash surplus of about S\$1 million. However, the hitch in the latter sale is the delayed completion period of six to nine months. Hence, it is desirable if she can arrange a temporary loan, based on the security of the land in Thomson Road, and the support of a firm contract of sale for that property. If she can raise a loan of S\$1 million, this loan, after discharging the existing mortgage on the property at Thomson Road, will provide the needed funds for her to exercise the option for the purchase of Kian Gwan's property. She is willing to risk the earnest money of about \$400,000 so as to enable How Lee Realty to submit plans for a "mixed development". On the approval of these plans in about one year's time, it is expected that the sale of the property mortgaged to us together with the option to purchase Kian Gwan's property, would attract more interested parties.

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PLAINTIFFS'
EXHIBITS

P 10

Plaintiffs'
memo re How
Lee Realty of
19th September
1975
(continued)

In addition, it is expected that with the improvement in the economy, several opportunities might be available to sell the entire project.

We have been requested to consider the interim loan on the above bases and this we have turned down, even though the sale agreement would likely be signed with the buyers (Choon Woo Pte Ltd) for Madam Tan's property at Thomson Road. We feel that, in spite of the contract for sale, our involvement might still run the risk of an abortive deal. Under the influence of this possibility, however remote, it is our decision not to commit further to Madam Tan on any real estate venture which is considered highly speculative.

10

We have advised Madam Tan of our decision. However, as we feel that her strategy for the potential sale of How Lee Realty's property is well calculated, although risky, we will assist her in looking for financing through finance companies and other institutions. Towards this end, the writer has spoken to Ong Tjin An and put the proposal for him to consider financing through ITF. It is uncertain whether ITF will grant the loan. Alternative sources have also been developed with e.g. Overseas Union Finance and Golden Castle Finance and a decision from these institutions will probably be known in about 10 days' time.

20

If Madam Tan is successful in raising a loan in the interim, this will speed up the planning approval process for How Lee Realty by about 6 to 9 months and by the time approval is obtained, our loan outstanding to How Lee Realty would be increased by another \$200,000 approximately. The total outstanding at that time would be about \$3.05 million (assuming no other credits) and the prospect of the company selling the entire project at Tanglin Road/Tomlinson Road would have to account for the additional outstandings. Although it is hazardous to guess what the market would deliver at that time, the additional risks that we would be facing would primarily be loss of interest income in the event that all plans as designed fall through (through Government acquisition or other "force majeure" conditions).

30

40

If Madam Tan is not successful in arranging an interim loan, the submission of plans for the land at Tanglin/Tomlinson Road will have to be

50

delayed by 6 to 9 months since the monies from her sale of the property at Thomson Road will not be forthcoming till then. We would lose time under these circumstances although we would not be abrogating any significant opportunity in the interim, given the uncertain economic climate that is likely to pervade between now and the next 6 to 9 months.

PLAINTIFFS'
EXHIBITS

P 10

Plaintiffs' memo re How Lee Realty of 19th September 1975

(continued)

10 Concurrent with the above events, Mr. Edward Kong's development of his three bungalows at Holland Road is progressing well. The sale of the other property at Tanglin Road under the account of Credit Investment is expected to be completed by the end of October 1975 at which time we will receive S\$1 million approximately for the reduction of the outstandings of Credit Investment. The three bungalows are expected to be completed by the end of the year and the "spill-over" from this account to reduce the
20 outstandings of How Lee Realty is expected to be about \$300,000 to \$400,000.

ML/se

P 11

Plaintiff's memo re How Lee Realty of 2nd March 1976

P 11

PLAINTIFFS' MEMO RE HOW LEE
REALTY OF 2nd March 1976

SINGAPORE BRANCH

M E M O S H E E T

Address
Singapore

30

How Lee Realty Pte.Ltd.

40 Today I visited by appointment with Messrs. Thomas Chow and Jack Oei of Kian Gwan Organization and Mr. Tay Keng Yeow, an Indonesian National with substantial interests in Jakarta. The purpose of the meeting was to discuss and negotiate the possible sale of the property at 10 Tomlinson Road to Mr. Tay. Messrs. Chow and Oei were representing Kian Gwan Organization in their negotiations with Mr. Tay on the sale of their property at 99B/101B Tanglin Road, Singapore 10.

PLAINTIFFS'
EXHIBITS

P 11

Plaintiffs'
memo re How
Lee Realty of
2nd March 1976
(continued)

Mr. Tay told us that he had met Mr. Edward Kong recently and is aware that Mr. Kong is owing FNBC about S\$3 million currently. He said that Mr. Kong had showed him How Lee's bank statement for January 1976. Mr. Tay is quite keen on the property at 10 Tomlinson Road and the adjacent Kian Gwan's property and is considering instituting a joint commercial cum residential development on both properties. I told them that our bank's position on the property has not changed and we are looking to sell the Tomlinson Road property for about S\$3 million. Although the property mortgaged to us may fetch only S\$1.5 million on an "existing-use" basis, they should also give due consideration to the potential value of the property on a joint-development basis. If this factor is taken into consideration, the value of the property is substantially higher, possibly around S\$3.5 million. 10

Mr. Tay indicated that he is prepared to offer S\$2 million for the property. I told him that the price offered is on the low side. However, if he could give us a firm offer for not less than S\$2.5 million, there may be some scope for negotiation. He said that he would need time to rework his figures and would give us a letter of intent through his lawyers in due course. 20

c.c. Lam Ho, H.O. 30
Art Wang, H.K.

Mam. Helen Tan Lai Wah and Mr. Edward Kong visited with us at the Bank this afternoon to discuss the letter of intent from Mr. Tay Keng Yeow dated March 3, 1976. Mr. Tay has made an offer to purchase the property at 10, Tomlinson Road at S\$2.5 million on condition that the said property is converted to commercial use and the necessary approval obtained from the competent authority. 40

According to Mdm. Tan, Mr. Tay had met her earlier on the Tomlinson Road land and has indicated a keen interest in the property. She said that Mr. Tay is willing in principle to buy the said property for S\$4 million and the adjacent Kian Gwan's property for about S\$4.5 million. She is very optimistic that an offer from Mr. Tay for the Tomlinson Road property at

10 S\$4 million would be forthcoming within two weeks and requested that we reply to Mr. Tay's solicitors, M/s. Francis C.H. Lee & Co., indicating our willingness to negotiate the sale of the property for S\$4 million. They would be prepared to assist and cooperate with us in the sale of the property at a price of S\$4 million. We told them that we are under some pressure from Senior Management to work out the loan as soon as possible and would not be prepared to wait six months or longer for the purchase of the two properties to be completed and plans approved for a joint commercial cum residential development. We stressed that we would be prepared to sell the property mortgaged to us as it is for not less than S\$3 million and requested that they give us their full cooperation. We told them that we have accommodated them for sometime now and they should not allow our present negotiations with Mr. Tay to fall through because we are asking for an unrealistic price. They understood our position and requested that we reply to Mr. Tay's solicitors indicating a price in the region of S\$4 million for the said property. We told them that we would discuss their request with Keith Tancock before we make a formal reply to Mr. Tay's solicitors. In any case, we would keep them informed on the substance of our reply and would send a copy of our letter to them for their files.

40 We briefed Keith Tancock today on our meeting with Mr. Edward Kong and Mdm. Tan Lai Wah yesterday. Keith is willing to give Mdm. Tan two weeks to get Mr. Tay to make a firm offer to us for an amount in the region of S\$4 million which she insisted was agreed upon between her and Mr. Tay recently. If we do not get a firm offer from Mr. Tay for the property at S\$4 million by March 22, 1976, we would proceed to make an outright sale of the property as it is for no less than S\$3 million to Mr. Tay or any other interested party.

Follow up

To reply to Mr. Tay's solicitors' letter dated March 3, 1976.

c.c. Lam Ho, H.O.
Art Wang, H.K.

PLAINTIFFS'
EXHIBITS

SINGAPORE BRANCH
M E M O S H E E T

P 11

Plaintiffs'
memo re How
Lee Realty of
2nd March 1976
(continued)

Address
Singapore

HOW LEE REALTY

Edward Kong, Director, came in to see me today to pursue earlier discussions on certain matters relating to his group of companies. I also took the opportunity of inquiring into the status of the land sale to Mr. Tay. Edward said that Mr. Tay had arrived back in town today and was negotiating with Kian Guan. Two alternatives are being considered. 10

1. That Kian Guan jointly submit, with HLR, plans for a mixed development on the whole site (which plans are already 60% through the government channels according to Edward) and then in 3-6 months or so, after approval, the site will be sold to one of several potential interested parties. Edward said that he was contemplating guaranteeing a minimum amount from such a sale to Kian Guan, with HLR retaining the balance. I cautioned him against proceeding on these lines, because of the further delay and uncertainty and because he might find that his guarantee of a minimum amount would leave HLR receiving too small a sum, which would be quite unacceptable to us. 20

2. That a sale of HLR's piece of land be effected as soon as possible to Mr. Tay for S\$3.6 million or so, without any conditions being attached. I strongly stated that our Bank wanted this latter course followed as urgently as possible. I also said that he should not try to hold out for too high a price, since all we want is S\$3.1 million to fully repay HLR's outstandings. We left it that he would report back to us shortly on the negotiations. 30 40

Overall, Edward is being most co-operative, particularly now that he is dealing with the writer and Victor Thio. We are receiving genuine responsiveness and should give Edward more time before we take any legal action.

c.c. V. Thio
FNBC Chicago
FNBC Hongkong

SINGAPORE BRANCH
M E M O S H E E T

PLAINTIFFS'
EXHIBITS

P 11

Address
Singapore

Plaintiffs'
memo re How
Lee Realty of
2nd March 1976

How Lee Realty Pte.Ltd.

(continued)

I had a call from Mr. Edward Kong, Director, today informing us that he had discussed the sale of the Tomlinson Road property with Mr. Tay Keng Yeow a few days ago.

10 Mr. Kong had put forward their sale proposals to Mr. Tay and is currently waiting for Mr. Tay to revert to him with a decision in a week. Mr. Tay is now in Indonesia and is expected back in Singapore again in a few days' time. Essentially, How Lee's proposals to Mr. Tay are as follows :-

20 (i) An outright sale of the property at 10 Tomlinson Road for between S\$3.6 million to S\$3.8 million without any special conditions attached except for the usual conditions of sale and purchase.

30 (ii) Joint sale of the said property with Kian Gwan's property for a total of S\$8.5 million whereby a price of S\$4 million is attached to How Lee's property. The prospective buyer would then have to submit plans for a joint commercial cum residential development to the relevant authorities for the necessary approval. Mr. Kong believes that the asking price for Kian Gwan's property is about S\$4.5 million.

I told Kong that we would prefer the former proposal and urged him to reduce their offer price if necessary to encourage Mr. Tay to accept proposal (i).

Mr. Kong said that he would give us a call before dropping in to see us once he has finalized his negotiations with Mr. Tay.

40 Presently, the overdraft outstandings on How Lee's Account are at S\$3,028,653 against the arranged limited of S\$2.5 million.

c.c. Lam Ho, H.O.
Art Wang, H.K.
Tim Gallagher, FCAL, Sydney.

PLAINTIFFS'
EXHIBITS

SINGAPORE BRANCH
M E M O S H E E T

P 11

Plaintiffs'
memo re How
Lee Realty of
2nd March 1976
(continued)

Address
Singapore

Credit Investment

Mr. Edward Kong visited with us at the Bank today to update us on the latest developments with regard to the sale of the Tomlinson Road property to Mr. Tay.

He said that he has not firmed up the sale of the said property to Mr. Tay Keng Yeow as Mr. Tay is still discussing the adjacent front piece belonging to Kian Gwan Organization with Mr. Jack Oei. He also said that Mr. Tay had been in hospital recently for a few days after a minor operation. Kong added that he shares our view in preferring an outright sale of the referenced property for about S\$3.5 million although Mr. Tay and his associates would prefer to purchase both pieces of property simultaneously and then submit plans to the Planning Dept. for a mixed development. He told us that Mdm. Tan Lai Wah, his co-director, is presently continuing serious negotiations with Mr. Tay on the terms and conditions of sale and purchase. 10 20

Mr. Kong informed us that they have also been approached by two other interested parties, namely Mr. Chua Poh Tiong of Asia Commercial Banking Corporation and Metro Holdings Ltd. While we believe these two parties may have approached them, we feel these negotiations are purely exploratory in nature. 30

Referring to the three bungalows at Upper Holland Road belonging to Credit Investment Pte. Ltd., Mr. Kong said that they have just obtained planning approval for the construction of a secondary road. He figured that they would need about S\$42,000 to complete the road and about S\$60,000 to complete the finishes on the three bungalows. In all, they would require at least S\$100,000 to complete the construction of the bungalows. We told them that we could not lend them the amount requested as this would be rather speculative since they have not as yet secured any firm sale. Mr. Kong said that he would do his utmost best to service some of our monthly interest and promised to clear the overdraft 40

outstandings on Eastwood's account before the end of May.

PLAINTIFFS'
EXHIBITS

P 11

We told him that we are under some pressure from our Head Office in Chicago to fully settle the outstandings owing to us on How Lee's account and urged him to firm up the sale of the 10 Tomlinson Road property to Mr. Tay within the next two weeks or so.

Plaintiffs' memo re How Lee Realty of 2nd March 1976
(continued)

10

c.c. Lam Ho, H.O.
Art Wang, H.K.
Tim Gallagher, FCAL, Sydney, Australia.

P 12

P 12
PLAINTIFF'S MEMO RE AUCTION
OF 16th December 1976

Plaintiffs' memo re auction of 16th December 1976

SINGAPORE BRANCH
M E M O S H E E T

Address
Singapore

20 How Lee Realty

The Tomlinson Road property was put up at live auction this afternoon by Richard Ellis, Sallmam, Seward and Loh.

In attendance were:

1. Edward Kong - new address 319J, City Towers 9th Floor, Bukit Timah, Singapore 10.
2. Kian Gwan Group - Thomas Chow, Humphrey Oei.
- 30 3. Asian Kingship Group (acting as agents for Kian Gwan) - Tay Keng Yeow, Mr. Cheong, Teo Teck Lam.
4. Raffles Properties - individuals not known, sikhs by dress, however.

The opening request was for a bit of S\$880,000. No bids were offered.

Office Tel. of Edward Kong 919038

PLAINTIFFS'
EXHIBITS

P 13

P 13
Bundle of
letters (3)
from Richard
Ellis

BUNDLE OF LETTERS (3) FROM
RICHARD ELLIS

RICHARD ELLIS
SALLMANN SEWARD & LOH (PTE)

5th March 1977

Property Managers & Consultants,
Valuers, Estate Agents &
Auctioneers

20 Ngee Ann Building
1st Floor, Orchard Road, 10
Singapore 9.
Telephone: 2350555 (3 lines)
Cable Address: RESSLOH

5 March 1977
AUC/JL/EL/2/6

The General Manager
Urban Redevelopment Authority
National Development Building
Maxwell Road
Singapore 1 20

Dear Sir

Sale of No.10 Tomlinson Road

We are acting on behalf of the First National
Bank of Chicago to dispose of the abovementioned
property. We understand from Mr. Peiro of the
Bank that he has spoken to you recently and we
would like to know if Urban Redevelopment
Authority would be interested in purchasing the
said property by private treaty.

Yours faithfully 30
RICHARD ELLIS SALLMANN SEWARD & LOH (PTE)

Sd:

b.c. Mr. Peiro
The First National Bank of Chicago

RICHARD ELLIS
SALLMANN SEWARD & LOH (PTE)

PLAINTIFFS'
EXHIBITS

Property Managers & Consultants,
Valuers, Estate Agents &
Auctioneers
20 Ngee Ann Building
1st Floor, Orchard Road,
Singapore 9.
Telephone: 2350555 (3
lines)
Cable Address: RESSLOH

P 13
Bundle of
letters (3)
from Richard
Ellis
(continued)
7th March 1977

10

7 March 1977

AUC/JL/EL/2/6

BY HAND

Mr Alan Choe
General Manager
Urban Redevelopment Authority
National Development Building
Maxwell Road
Singapore 1

Dear Sir

20

Sale of No.10 Tomlinson Road
Lots 107-85, 107-86, 107-87
107-88 & 107-89 TS XXIV
Title - Freehold
Total Area - 3764.7 m² or 40,523 sq.ft.

30

We refer to the telephone conversation that
the writer had with you this afternoon and would
like to state that we have the authority from
the First National Bank of Chicago to offer
the sale of the abovementioned property by
private treaty at a price of \$1.2 million with
vacant possession.

As you know, there is at present a buyer for
this piece of land at the said price and we
are instructed by the Bank to make this offer
in preference to you and hope that you give
this matter your early consideration.

Yours faithfully
RICHARD ELLIS SALLMANN SEWARD & LOH (PTE)

Sd: Johnny Loh

40

Johnny Loh

b.c. Mr. Peiro
The First National Bank of Chicago

PLAINTIFFS'
EXHIBITS

RICHARD ELLIS
SALLMANN SEWARD & LOH (PTE)

P 13

Property Managers & Consultants,
Valuers, Estate Agents & Auctioneers

Bundle of
letters (3)
from Richard
Ellis

20 Ngee Ann Building
1st Floor, Orchard Road,
Singapore 9.

(continued)

Telephone: 2350555 (3 lines)
Cable Address: RESSL0H

25th March
1977

25 March 1977

10

AUC/JL/EL/2/6

The First National Bank of Chicago
Wing On Life Building
150 Cecil Street
Singapore 1

Attn: Mr. Peiro

Dear Sirs

Sale of No.10 Tomlinson Road
Lots 107-85, 107-86, 107-87, 107-88
& 107-89 XXIV
Title - Freehold
Total Area - 3364.7 m² or 40,523 sq.ft.

20

As spoken over the telephone this morning,
Mr. Alan Choe, General Manager of Urban Redevel-
opment Authority, telephoned the writer to say
that his Board has considered the offer and is
making a counter offer to purchase the land by
private treaty at \$23/- psf.

The writer has, as discussed with you, reverted
to Mr. Alan Choe with the request that he
reconsiders his offer which he is doing and let
me know.

30

I mentioned that we have had a firm offer of
\$1.2 million to purchase the land with a firm
date of completion. The prospective buyer has
retracted when he found that URA has shown
interest in this land. The Bank has lost a good
offer and it is only fair that the Bank insists
on \$1.2 million for the said land.

Yours faithfully
RICHARD ELLIS SALLMANN SEWARD & LOH (PTE)

40

Sd: Johnny Loh
Johnny Loh

P 13A

LETTER OF 15th January 1980
FROM RICHARD ELLIS TO PLAINTIFF
AND ENCLOSURES

P 13A

Letter of 15th
January 1980
from Richard
Ellis to
Plaintiff and
Enclosures

RICHARD ELLIS
C.H.WILLIAMS (PTE) LTD

International Property Consultants
Valuers and Estate Agents

10

Suite 2406 Shaw Centre
Scotts Road Singapore 0922

Telephone: 2354755
Telex Resin RS25268

Tanglin PO Box 357 Singapore 9124

London Manchester Glasgow Brussels
Paris Amsterdam Madrid Chicago
Atlanta Hong Kong Johannesburg
Cape Town Durban Melbourne
Adelaide Sydney Perth Brisbane and
associated offices throughout
Malaysia

20

Our ref: Auc/2/6/WS/MA

15th January 1980

The First National Bank of Chicago
150 Cecil Street
Singapore 0106

Attn: Mrs. Mei-Yew

Dear Sirs,

Auction Sale of 10 Tomlinson Road

30

We refer to the recent telephone conversation
between Mrs. Mei-Yew and the writer.

As requested, we are forwarding herewith copies
of our letter to URA dated 25th April 1977 and
URA's letter dated 12th May 1977.

Yours faithfully
RICHARD ELLIS, C.H.WILLIAMS (PTE) LTD.

Sd: W.Shee

WILLY SHEE

Enc:

PLAINTIFFS'
EXHIBITS

C O P Y

P 13A

Letter of 15th
January 1980
from Richard
Ellis to
Plaintiff and
Enclosures
(continued)

25 April 1977

AUC/JL/EL/HC/2/6

Mr. Alan Choe
General Manager
Urban Redevelopment Authority
National Development Building
Maxwell Road, Singapore 1

Dear Sir

Sale of No.10 Tomlinson Road 10
Lots 107-85, 107-86, 107-87
107-88 & 107-89 TS XXIV
Title - Freehold
Total Area - 3764.7 m² or 40,523 sq.ft.

The writer would like to refer to the previous discussions he had with you on instructions from The First National Bank of Chicago regarding the offer for sale of the abovementioned property by private treaty to URA.

The Bank was offered a price of \$1.2 million (or \$29.61 psf) but this offer was not concluded. In the light of URA's interest in the land and its offer to purchase it, the Head Office of the Bank in Chicago was asked to consider if it would sell the land at \$23/- psf. The Bank then made an asking price of \$1.1 million (or \$27.15 psf). This was conveyed to you through the telephone by the writer. The offer was turned down by you. 20

We have requested the Bank to reconsider further reducing the selling price since in your opinion it is still on the high side. The matter was referred to the Head Office of the Bank of Chicago and we gather that the Bank was very reluctant to reduce its asking price because of its losses in this deal. At length the Bank was instructed by the Head Office to make a final offer which was conveyed to you last week, that is \$1,025,000/- (or \$25.29 psf). This offer was in relation to an amount of \$1,010,000/- (or \$24.92 psf) which you were prepared to recommend URA to pay for the land. 30 40

In view of the heavy losses being incurred by the Bank and that it has reduced substantially from its original asking price of \$1.2 million, the bank would like you to appreciate its predicament and hope that you will agree to

settle finally at \$1,025,000/- (or \$25.29 psf).

PLAINTIFFS'
EXHIBITS

We await to hear from you early.

P 13A

Yours faithfully,
RICHARD ELLIS SALLMANN SEWARD & LOH (PTE)

Letter of 15th
January 1980
from Richard
Ellis to
Plaintiff and
Enclosures
(continued)

Sd: J.Loh

Johnny Loh

b.c. Mr. Peiro
The First National Bank of
Chicago

10

C O P Y

URBAN REDEVELOPMENT
AUTHORITY

Your ref: AUC/JL/EL/HC/2/6
Our ref: URA/2/20
Date: 12 May 77

20

M/s Richard Ellis Sallmann
Seward & Loh (Pte)
20 Ngee Ann Building
(1st Floor) Orchard Road
Singapore 9

Attn: Mr. Johnny Loh

Dear Sirs

SALE OF NO.10 TOMLINSON ROAD
LOTS 107-85, 107-86, 107-87,
107-88 & 107-89 T.S. XXIV

We thank you for your letter dated 6-5-77.

2. We agree that paragraph 3(c) of our letter
dated 4-5-77 is not applicable as the sale is
based on the purchase price of \$1,025,000.00.

30

3. However, with regard to the last sentence
in paragraph 2 of your letter, please note that
the purchase of the above property by us is
subject to the usual satisfactory replies to
the standard legal Requisitions to the various
Government Departments and to the title of the
said property being in order, inter alia, as

PLAINTIFFS'
EXHIBITS

P 13A

Letter of 15th
January 1980
from Richard
Ellis to
Plaintiff and
Enclosures

(continued)

expressly stated in our letter of 4-5-77.

Yours faithfully,

Sd: Emily Foo

EMILY FOO (MISS)
EXEC. LEGAL OFFICER
URBAN REDEVELOPMENT AUTHORITY

P 14

Plaintiff's
memo re Credit
Investment of
17th April
1973

P 14

PLAINTIFFS' MEMO RE CREDIT
INVESTMENT OF 17th April 1973

10

SINGAPORE BRANCH

M E M O S H E E T

Address

19 Killiney Road
Singapore 9
Tel. 376930

CREDIT INVESTMENT (PTE) LTD

I met with Mr. Edward Kong today and discussed
a loan proposal which was subsequently finalized
with JYR's approval. The deal is as follows:-

20

a) Obligor : Mr. Edward Kong is an Accountant
by training and was previously a partner with
Goh & Associates (S.G.V-Goh) before he set up
his own practice in Johore Bahru, Malaysia in
1969. Since then he has set up his own
investment/holding company called Credit
Investment (Pte) Ltd. The company as at 31
March 1973 had a paid-up capital of S\$500,000
which will be increased to S\$1,000,000 when the
formalities of share issue are completed.
Amongst its "locked-in" assets are namely :

30

- a) quoted shares (market value about
S\$3.6 million)
- b) investment in private companies (about
\$310,000).

Besides these, the company has purchased 3 pieces

of land in Johore Bahru, Bukit Timah Road and Moulmein Road which will be re-sold at a profit in due course. Up to March 1973 the company made capital gains from its investment shares of about \$428,000 which will be capitalized as a capital reserve. In addition to these about \$98,000 were earned from profits on share transactions on a contra basis, which will be considered as earned surplus. (The rule of thumb adopted for tax in this instance seems to hinge on the length which the investment share are held). Edward Kong is well acquainted with the tax treatment and his explanation to me was well informed.

10

Edward confidentially told me that he has applied for a seat on the Stock Exchange in partnership with Mr. Lim Kwang Hua, Treasurer of Shell, who would be resigning in July. The other partners in this new share broking firm will be a certain Mr. Foo who is a stock broker by profession and the United Overseas Bank will also be involved as a partner through one of its nominees/subsidiaries. Confidentially Edward also told me that a substantial line of credit from UOB will be obtained to provide the working capital for the broking house.

20

b) Loan requested : The company has entered into an agreement to purchase a prime piece of land consisting of 40,523 sq.ft. The purchase price is about \$100 per sq.ft., and the purchase agreement was entered into sometime in late March 1973. This land is directly opposite Raffles Village along Tomlinson Road. Adjoining the piece of land and facing Tanglin Road is another piece of land about 18,000 sq. ft. owned by Kian Guan Sdn. Bhd. Kian Guan might be going into a joint venture with Edward Kong to develop the 2 pieces of land together into a shopping/tourist complex. This is in accordance with the government's master plan which recently acquired a substantial portion of the lands around the vicinity. The government's acquisition was announced about 2 months ago and covers a whole stretch of lands from the Tudor buildings along Tanglin Road to Grange Road market.

30

40

Edward requested financing of about \$2.5 million on an overdraft basis for about one year. The facility will be used partly to pay the remaining purchase price of the land. Before the expiry of the one year period, it is hoped that detailed plans would be submitted for approval to develop it and the project conceived in the

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1973

(continued)

meantime. The land would then be sold to the new development company in which Edward hopes to hold 51%. Off hand, he could not say who this partner might be, besides Kian Guan with whom he obviously has mutual interest.

If the project is not conceived within 12 months, Edward might sell the land or the loan would be repaid with the investment shares of Credit Investment (Pte) Ltd.

c) Conclusion : The land in question carries with it an assessed value of about \$4.9 million and the appraisal was done by Victor & Mendez (Pte) Ltd. on April 12 1973. 10

I obtained a second opinion from Cheong Koon Seng & Co. Pte. Ltd. and their view concurs roughly with that of Victor & Mendez. The land is appraised at about \$120 per sq. ft.

Edward and his wife gave me an estimate of their personal net worth (oral) and in verifying with Khor Thiam Beng who is also Edward's solicitor, his net worth is estimated to be at least \$5,000,000 to \$8,000,000. 20

d) Commitment : I obtained JYR's agreement to commit to Edward Kong the following :-

Obligor : How Lee Realty (Pte) Ltd. This is a "shell" company incorporated for the sole purpose of buying the land and will have a paid-up capital of only \$2 held by Edward and his wife respectively. 30

Amount : S\$2.5 million one year overdraft facility, which works out to be 51% of the assessed value of the land.

Interest rate: 2½% over the prime rate for S\$ (i.e.10%).

Security : First legal mortgage of the land known as 10 Tomlinson Road, Singapore. 40

Guarantors : Mr. Edward Kong jointly with Mrs. Edward Kong

c.c. Mr.Wallace R.Anker, Tokyo
Mr. Pat Kelly, H.O.
Mr. John Lewis, H.O.

b.cc How Lee Realty file

PLAINTIFFS' MEMO RE MALAYAN
CREDIT OF 13th August 1974

Plaintiffs'
memo re
Malayan Credit
of 13th August
1974

SINGAPORE BRANCH
M E M O S H E E T

Address
300 Orchard Road
Singapore 9

10 MALAYAN CREDIT LTD.
t.c. How Lee Realty Pte.Ltd.

I met over lunch with M/s. M.Ghows, Chet Chua,
Directors and David Chan, Secretary today to
obtain first hand information regarding the
purchase of the piece of land owned by M/s. How
Lee Realty Pte.Ltd. I had been previously
informed by Edward Kong of his negotiations for
the past several months on the proposed sale.
20 The negotiations have fallen through for one
reason or another. Comments and reasons offered
by Edward Kong were varied and quite bias.
Edward had previously asked me to use our
influence and connections with Malayan Credit
and obtain the sale for him. I was unwilling
to do any type of sales talk for him and left
the matter entirely in his own hands to negotiate.
Facts known to us were disclosed to Malayan
Credit at various times. These were facts
30 regarding the land and did not involve the
commitment on the part of the Bank particularly
with respect to the possible financing of the
project.

Sometime in March this year, I have had an
opportunity to talk with Chris Chua, the
Managing Director and principal decision maker
of Malayan Credit Ltd. Chris had at that point
of time been negotiating with the Jacob & Company
principals regarding the sale of a timber
concession to the Khos. At that time, Kho Kong
40 Wang was supposed to be personally involved in
How Lee Realty together with Edward Kong as a
partner. Since then, I believe that through
personal misunderstandings with Edward Kong, he
has withdrawn his "shares" in the How Lee
project. Chris Chua had started talking
initially with the Khos on Malayan Credit's
purchase of How Lee's land. But since the Khos
had not shown interest in the Chua's timber
concession, Chris's interest in the How Lee

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Plaintiffs'
memo re
Malayan Credit
of 13th August
1974

(continued)

piece of land was also somewhat cooled.

Towards June, Ghows and David Chan represented the feasibility of the project to Chris Chua with an asking price by Edward Kong of S\$5 million for the piece of land at Tomlinson Road, which together with the piece of land fronting Tanglin Road to be sold by Kian Guan for about S\$5 million would make the total land cost of S\$10 million. The feasibility was presented in cooperation with M/s. Seow, Lee and Heah, the architects who are behind the project and this had gone to an advanced stage involving the Quantity Surveyors, M/s. Quants & Associates, also customers of the Bank. Thus, to all intents and purposes, Malayan Credit was interested in the project and with their cash rich position, viable projects would be seriously looked at.

10

Apparently, while Ghows and David were still in Hongkong, Edward Kong decided to pitch for a higher price and reverted to Chet Chua, who was in Singapore at that time. Edward told them that the price is not S\$5 million but S\$6 million for the Tomlinson Road land. According to Chet Chua, Edward Kong in a self aggrandizing pose thought he had the sale in his hands and started dropping names. He mentioned such names as Singapore Land, Far Eastern Bank Group, Cho Jock Khim as being offerors. Thus, before a fresh presentation could even be discussed with Chris Chua in Hongkong, the perhaps desperate greed of Edward Kong had annoyed Ghows, Chan and Chet somewhat. It is easy to understand the credibility gap caused. Obviously, Edward Kong did not know that Chris Chua was already somewhat disinterested in the project as he had failed to strike a "bargain" with the Khos in the sale of his timber concession. The timber concession, it should be noted, is held not by Malayan Credit Ltd. but by the Chua family concern. Hence, interest in the Tomlinson Road project should certainly be determined somewhat by the success of the proposed sale of the timber concession.

20

30

40

Ghows also mentioned that Edward is a very bad negotiator and had in fact been doing too hard a sale, quite naively. Outside commission to the Malayan Credit executives was offered, and this was poorly handled. I told Ghows that they should not take Mr. Kong too seriously, as he had also been trying to bait the Bank, and me in particular, with a commission should we assist in the sale of the land.

50

I asked the Malayan Credit executives whether they would consider it proper for the Bank to present to Chris Chua the project in question and ask him to make a decision. According to David, Chris's temperament has been somewhat conditioned by the Jim Slater mentality i.e. conserve cash. He cannot say what Chris's reaction will be but said we could try.

PLAINTIFFS'
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Malayan Credit
of 13th August
1974

10 I concluded our discussions by requesting that they keep abreast of the Tomlinson Road project as there might be a possibility for us to make them an offer. Sometime towards end September, Chris will be in Singapore for the company's Annual General Meeting. We might have an opportunity to talk with him. (continued)

20 The writer subsequently summarized the discussions with Keith Tancock and also reviewed briefly How Lee's conduct of account with us. It is noted that How Lee has been paying its interest regularly since its account was established last year. However, for July the interest outstanding of about S\$27,000 has still not been paid. I have tried to contact Edward Kong and have written 2 reminders to pay the interest.

30 I had managed to contact him once and it appears that he is running into a rather tight cash position. Although the net worth of Edward Kong is still fairly substantial, much of this is tied up in properties and stock market investments. The latter provides him with cash but when prices fall, his margins would also fall. This explains his late payment of July's interest since the market took a sharp fall in July.

40 As covered in an earlier call memo on Edward Kong's associate company, Credit Investment Pte. Ltd., it was noted that he has finalized the sale of one of his properties for about S\$1 - \$1.2 million to the Saudi Arabian Consulate. The Arabian Consulate has requested their lawyers to investigate the title deeds and as soon as approval from the Singapore Government is obtained, the proceeds of the sale would be paid to us.

50 In the meantime, there will be obligations for Edward Kong to meet for both interest payments on How Lee's account and Credit Investment's account besides making progress payments for the construction of the 3 bungalows at Holland Road, Singapore.

PLAINTIFFS'
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Plaintiffs'
memo re
Malayan Credit
of 13th August
1974
(continued)

We will continue to watch the conduct of Kong's accounts and press for payments of interest on time. In the meantime, we will meet with Edward Kong to see if he would like the Bank's assistance in selling the land at Tomlinson Road. If he agrees, we would request for a formal letter of authorization before we act in order to avoid any oblique accusations that we are not acting to his best interest. It is beginning to be proven that he may be a difficult man to handle, particularly in view of depressed conditions. 10

We should also be keeping in constant touch with major land and real estate developers in Singapore particularly through Victo Wee of M/s. Victor & Mendez who is acting in the sale of the adjacent piece of land to be sold by the Kian Guan principals. It is important that we continue to maintain such contact so as to facilitate our moving in to realise our security in the event that a liquidity crisis arises with Edward Kong before he could conclude the sale of his properties with other parties. 20

c.c. Mr. Low Beng Bak, HO
Mr. Dave Warner, Hongkong

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Plaintiffs'
memo re How
Lee Realty of
9th January
1975

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PLAINTIFFS' MEMO RE HOW LEE
REALTY OF 9th January 1975

SINGAPORE BRANCH

30

M E M O S H E E T

Address
7th Fl. OUE Bldg.
Collyer Quay
Singapore 1

HOW LEE REALTY PTE.LTD.

Today we visited with Mr. Thomas K.M.Chow, Director/Secretary of Kian Gwan (Singapore) Pte. Ltd. and Mr. Oei Ing Kiang of Kian Gwan Engineering Pte.Ltd. The purpose of our call is to find out Kian Gwan's position regarding the How Lee land at 10, Tomlinson Road, Singapore. 40

Mr. Chow informed us that an option was given to the How Lee principals to buy their front piece of land in early 1972 at a price of about S\$5 million. During subsequent meetings and negotiations, they had agreed to lower the price to S\$4.8 million. Unfortunately, the property market took a turn and the principals were unable to obtain financing for the purchase of the land. Consequently, the principals never came back and neither party now has any obligations to the other. Kian Gwan is free therefore to take one of the following alternatives :

10

- a) to continue to sell their front piece together with How Lee's back piece if they can get a "good" price for the back piece;
- b) to sell their front piece singly if there is a potential buyer; and
- c) to develop the front piece themselves as their study reveals that their 6-storey project is feasible.

20

While we believe item (c) is true, we feel that a joint venture development with an outside party on both the front and back piece is most feasible in terms of profitability. In our opinion, the last alternative is most beneficial to Kian Gwan only if a joint venture development is not possible.

30

Kian Gwan Malaysia is currently going through voluntary liquidation as the group is in the process of being restructured. The group is certainly in no real hurry to sell their piece of land as it is unencumbered and they are not facing any cash flow problem at present.

40

The two gentlemen made it clear to us that they would not want to be involved in negotiating with the principals of How Lee because their past meetings got nowhere. According to Thomas, Edward Kong of How Lee wanted a price of S\$3.5 - 3.8 million for their back piece which he thinks is ridiculous in view of the current depressed property market. Even a price of S\$3 million is not acceptable to them as it works out to about S\$75 per sq.ft. This is a huge price to pay for a purely residential property. The potential is much greater if the development is based on the front and back piece since planning approval may be obtained for a commercial cum residential type development.

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Lee Realty of
9th January
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(continued)

We asked Thomas to confidentially reveal to us the price they are willing to pay for the back piece as we were earlier told that they found a prospective buyer for the front and back piece. Kian Gwan would be going into joint venture development with the buyer if the sale can go through. The price quoted to us is between S\$1.5 to S\$2 million which is way below our asking price of S\$3 million. Thomas asked us to get back to him with a firm price so that they can close the deal with the buyer. We told him that we would have to consult our lawyers as to how we should move with the property assuming that we would want to sell the property mortgaged to us at this stage. We promised to let him have our decision by this coming Monday. It appears that we have the following alternatives :

10

- 1) to wait till we get a buyer for S\$3 million or more. In the meantime, we would continue our selling efforts;
- 2) to sell the land now to Kian Gwan's prospective buyer at their price of between S\$1.5 to S\$2 million assuming we can proceed without legal ramifications; and
- 3) to negotiate a private sale or conduct a forced sale etc. We have been advised by our lawyers, M/s. Lim Sin & Thiam Beng not to do an auction sale because it is too unattractive for potential buyers.

20

30

c.c. Low Beng Bak, HO
Alan Whitmore, Hongkong

PLAINTIFFS' MEMO RE HOW LEE
REALY of 13th January 1975

Plaintiffs'
memo re How
Lee Realty of
13th January
1975

SINGAPORE BRANCH

M E M O S H E E T

Address
7th Fl. OUE Building,
Collyer Quay
Singapore 1

10

HOW LEE REALTY PTE. LTD.
Lauw & Sons Pte.Ltd. file

20

In our continued efforts to assist M/s. How Lee Realty Pte.Ltd. sell their property, we met with Mr. K.K.Ong of Lauw & Sons Pte.Ltd. We told him that the property owned by How Lee has been offered at about S\$4.5 - S\$4.8 million making the total land cost about S\$8.3 million. On a per sq.ft. basis, this will work out to be about S\$148/- per sq.ft. We gave him copies of the feasibility, site plan and the architects' sketches for his study.

30

K.K. Ong was non-committal and did not seem to be too enthusiastic about this proposal. He mentioned that this property would be threatened with acquisition from the Government as it is located very near to the Government's Tourist Promotion Board complex. A Southeast Asian cultural and handicrafts center is being constructed by the Government next to the Tourist Promotion Board's building at Tudor Court, and as we know, the areas around it have all been acquired by the Government. Previous assurances by the architects, M/s. Heah Hock Heng, indicate that chances for the How Lee property and Kian Gwan's property to be acquired are slim. K.K.Ong nonetheless mentioned that they want to be very careful before going into anything that has the slightest prospect of being acquired. We told him that the threat of acquisition looms over most Singapore properties that are strategically located and this is an inherent business risk which has to be faced.

40

On the financing of the project, I told K.K.Ong about the existing mortgage of How Lee with us and that we would submit to Chicago a proposal for financing of the total package if his Group

PLAINTIFFS'
EXHIBITS

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Plaintiffs'
memo re How
Lee Realty of
13th January
1975
(continued)

is interested. Initially, they need to pay 10% to Kian Gwan and deferred payments could be obtained. I also told him that How Lee will likely give deferred payment terms if they are interested in purchasing their property. With deferred payment terms and land cost of about S\$148/- per sq.ft. only, it is a good project. However, the fear which K.K.Ong has concerning Government acquisition will have to be reduced if his interest is to be further developed. He mentioned that he will be talking with the Government Planning Department and several of his business contacts before reverting back to us.

10

c.c. Low Beng Bak, HO
Alan Whitmore, Hongkong

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Plaintiff's
memo re How
Lee Realty of
30th January
1975

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PLAINTIFFS' MEMO RE HOW
LEE REALTY OF 30th January
1975

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SINGAPORE BRANCH

M E M O S H E E T

Address
300 Orchard Road
Singapore 9

MALAYAN CREDIT LTD.
How Lee Realty Pte.Ltd. file

I met with Mr. Chet Chua and Mr. David P.L.Chan over lunch today. This meeting was an attempt to reinstitute discussions on the sale of How Lee Realty's land. Negotiations had fallen through about six months ago.

30

I told the gentlemen, on a strictly confidential basis, that if they are able to come up with a firm offer of S\$3 million for the piece of land offered by How Lee, we will exercise our influence to ensure that they will be able to purchase the land at that price. I suggested that they should negotiate directly with Kian Gwan for the purchase of the adjacent property

40

10 instead of relying on Edward Kong to take up
an option and subsequently sell it as a total
package. This, I feel is a more feasible way
than the approach which the vendors are
instituting. Mr. Edward Kong had hitherto been
trying to sell the Tomlinson Road property,
on the assumption that he takes up an option
for the Kian Gwan property at S\$4.5 million.
With the option, he intends to sell the project
as a total package for S\$10 million or so
thereby putting the price of the land owned by
How Lee at about S\$5 million. His approach has
several pitfalls. Firstly, it is uncertain
whether the owners of the Kian Gwan would be
willing to give an option as has been indicated
to us. They would prefer a firm contract with
a 10% deposit being paid before agreeing to a
firm sale. As it is obvious that How Lee is
unable to come up with a 10% payment, they
20 are therefore not in a position to execute a
sub sale. They rely on the hope that if they
can find an interested party, they will be able
to pay the nominal option money to Kian Gwan
and have an agreement signed later between the
third party and Kian Gwan. In this type of
"back-room" operation, the third party that is
interested in the project will inevitably be
checking with Kian Gwan and the architects may
not be willing to submit the plans without the
owners signing a firm contract for their
30 services.

Chet and David were receptive to my explanation.
I told them that I will be happy to introduce
them to Kian Gwan and sit in on meetings on a
very confidential basis so as not to antagonise
our customers, How Lee Realty. They agreed to
study the matter again on the basis of the
new price structure indicated and will revert
back to us before making any move with regard
40 to negotiations with Kian Gwan.

c.c. Low Beng Bak, HO
Jones Castro, Hongkong

PLAINTIFFS'
EXHIBITS

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Letter of 3rd
March 1976
from Francis
C.H.Lee & Co.
to Plaintiffs

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LETTER OF 3rd March 1976 FROM
FRANCIS C.H. LEE & CO. TO
PLAINTIFFS

FRANCIS C.H. LEE & CO.
Advocates & Solicitors
Singapore

Suit 417, 4th Floor,
Colombo Court,
P.O. Box 373,
Singapore 6.

10

3rd March 1976

The First National Bank of Chicago,
Singapore Branch,
49 Robinson Road,
Singapore 1.

Attention: Mr. Victor Sin-Hai Thio

Dear Sirs,

Re: Lands at No.10 Tomlinson Road,
Lots 107-85, 107-86, 107-87
107-88, 107-89 T.B. XXIV

20

We act for Mr. Surya Tedja @ Tay Keng Yeow of
Indonesia and presently residing at Room 3603,
International Plaza, Anson Road, Singapore 2
and refer to the meeting between your Mr. Thio
and our Mr. Tay at the office of M/s. Kian Gwan
Engineering Private Limited on 2nd March 1976
and the discussion over the purchase of the
above lands.

We are now instructed to inform you that our
client is prepared to consider purchasing the
above lands at the price of \$2.5 million on
condition that the said lands are converted to
commercial use and with the approval of the
competent authority obtained by your clients.

30

Kindly let us hear whether our client's
proposal will meet with your clients and your
approval. If the terms are agreeable, our
instructions are to enter into a formal agreement
or an option for the purchase of the above lands.

40

Yours faithfully,
Sd: Francis C.H.Lee & Co.

- c.c. 1. Mr. Oei Tjong Ie
2. Mr. Oei Ing Tjien
3. Mr. Edward K.Y.Kong
4. Client

PLAINTIFFS'
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Letter of 3rd
March 1976
from Francis
C.H.Lee & Co.
to Plaintiffs
(continued)

wsc/nhe

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Letter of 5th
March 1976 from
Plaintiffs to
Francis C.H.Lee
& Co.

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LETTER OF 5th March 1976 FROM
PLAINTIFFS TO FRANCIS C.H.LEE & CO.

10

C O P Y

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH

March 5, 1976

Francis C.H.Lee & Co.
Suite 417, 4th Floor
Colombo Court
Singapore 6.

Dear Sirs:

Re: No.10 Tomlinson Road, Singapore

20

We refer to your letter of March 3, 1976 and wish to advise that the condition attached to the offer of S\$2.5 million for the above property is not acceptable to us. However, we would be prepared to consider an outright sale of the referenced property as it is for an amount in the region of S\$4 million.

Kindly convey same to your client and let us have his reply to our proposal by Monday, March 22, 1976.

30

Sincerely,
Sd: T.S.Hai
Victor Thio
VT/hp

c.c. Mr. Oei Tjong Ie
Mr. Oei Ing Tjien
Mr. Edward Kong

PLAINTIFFS'
EXHIBITS

P 21

Letter dated
16th March 1976
from Francis
C.H.Lee & Co.
to How Lee
Realty

P 21

LETTER DATED 16th March 1976
FROM FRANCIS C.H.LEE & CO. TO
HOW LEE REALTY

FRANCIS C.H. LEE & CO.
Advocates & Solicitors
Singapore

Suite 417, 4th Floor,
Colombo Court,
P.O.Box No.373,
Singapore 6.

10

Date: 16.3.76

M/s. How Lee Realty Pte.Ltd.,
3rd Floor, Maxwell House,
Maxwell Road,
Singapore 2.

ATTN. Mr. Tan Lay Hua

Dear Sirs,

Re: Lands at No.10 Tomlinson Road,
Lots 107-85, 107-86, 107-87,
107-88, 107-89 T.B.XXIV

20

We act for Mr. Surya Tedja @ Tay Keng Yeow of
Indonesia and presently residing at Room 3603,
International Plaza, Anson Road, Singapore 2.

We are instructed that you are the owners of
the above property which is presently mortgaged
to "The First National Bank of Chicago".

We are now instructed that our client is
prepared to consider purchasing the above
property at the price of \$3 million, on condition
that the said lands shall be converted to
commercial use and approval of layout plans to
be obtained by you, and that no interest shall
be payable by our client prior to approval on
the layout plans being obtained from the
competent authority within a reasonable time to
be agreed upon.

30

Kindly let us hear from you whether the sale
price and the terms herein are acceptable to you.
We are forwarding a copy of this letter to The
First National Bank of Chicago for their inform-
ation, as we have earlier approached them on
this matter.

40

Yours faithfully,
Sd: Francis C.H.Lee & Co.

- c.c. 1. The First National Bank of Chicago
(Attn. Mr. Victor Sin-Hai Thio)
2. Client

PLAINTIFFS'
EXHIBITS

P 21

Letter dated
16th March 1976
from Francis
C.H.Lee & Co.
to How Lee
Realty

(continued)

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LETTER OF 2nd July 1976 FROM
FOURTH DEFENDANT TO PLAINTIFFS

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Letter of 2nd
July 1976 from
Fourth Defen-
dant to
Plaintiffs

(Mdm.) Tan Lai Wah @ Tan Yen
Wah

33 One Tree Hill,
Singapore 9.

10

July 2, 1976

The First National Bank of Chicago
Singapore Branch.

Dear Sirs,

20

This is to confirm an agreement whereby you
have agreed to debit my personal account with
the amount \$150,000-00 immediately and to
credit the said amount to the account of How
Lee Realty Pte.Ltd. and further upon my request
within 6 weeks of the date hereof namely on or
before the 12th of August 1976 to release the
title in respect of the property at Tomlinson
Road to How Lee Realty Pte.Ltd. in order that
the company can complete its sale of the
property to Asian Kingship Development (Pte) Ltd.
at the price of \$1.5 million (Dollars One
Million Five Hundred Thousand only) so that
Asian Kingship Development (Pte) Ltd. can in
turn mortgage the said property to you.

30

I also confirm that I shall assign my 30%
interest and all other interests I may have in
the property at Shenton Way/Palmer Road,
Singapore, known as Lots 176-2 and 272 of Town
Subdivision XXIII containing an area of
approximately 31,288 sq.ft., as security for
overdraft facilities to be granted by you upon
the mortgage to Asian Kingship Development
(Pte) Ltd. I also pledge my personal guarantee

PLAINTIFFS'
EXHIBITS

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Letter of 2nd
July 1976 from
Fourth Defen-
dant to
Plaintiffs
(continued)

to Asian Kingship Development (Pte) Ltd. The documents relating to my interests in the Shenton Way/Palmer Road property were executed in the office of Messrs. Lim Sin & Thiam Beng.

Yours faithfully,

Sd: Tan Lai Wah

(Mdm.) Tan Lai Wah @ Tan Yen Wah

We, the First National Bank of Chicago hereby confirm our agreement to the aforesaid.

wsc/nhe

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P 22A

Letter of 3rd
July 1976 from
the Plaintiffs
to Fourth
Defendant

P 22A

LETTER OF 3rd July 1976 FROM
THE PLAINTIFFS TO FOURTH
DEFENDANT

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH

July 3, 1976

Madam Tan Lai Wah @
Tan Yen Wah
33 One Tree Hill
Singapore 9.

20

Dear Madam Tan:

Reference your letter to me dated July 2, 1976 wherein you advised me of potential sale of Tomlinson Road property to Asian Kingship Development (Pte) Ltd. of S\$1,500,000. The First National Bank of Chicago will not agree to this sale for S\$1.5 million unless the guarantors of the How Lee Realty loan (Edward and Catherine Kong and yourself) make arrangements with the bank to satisfy the difference between the outstandings on the How Lee loan at the time of sale to Asian Kingship Development (Pte) Ltd. and the \$1.5 million. This means that the bank does not under any circumstances relinquish its rights to seek compensation from all guarantors.

30

If you can provide the bank with collateral on a promissory note equal to the difference

40

between the outstandings and the sale price, the bank would be willing to release title on the land at the time of sale. Please make arrangements to visit me in our offices with your legal counsel, Mr. Lim Sin at the earliest possible opportunity.

Regards,

Sincerely,

Sd: Patrick J. Amick

PLAINTIFFS'
EXHIBITS

P 22A

Letter of 3rd July 1976 from the Plaintiffs to Fourth Defendant

(continued)

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wsc/nhe

P 23

LETTER OF 1st July 1976 WITH
ENCLOSURES FROM CREDIT INVESTMENT
TO PLAINTIFFS

P 23
Letter of 1st July 1976 with enclosures from Credit Investment to Plaintiffs

CREDIT INVESTMENT (PTE) LTD.

7th Floor
Overseas Union Shopping
Centre
Collyer Quay, Singapore

20

1st July 1976

The Manager,
First National Bank of Chicago,
49 Robinson Road,
Singapore 1.

Dear Sir,

Re: How Lee Realty (Pte) Ltd.
Approval of Power of Attorney
to Director Madam Tan Lai Wah

30

Further to our letter to you dated June 10, 1976, we are pleased to enclose herewith the following documents and Directors' resolution approved by Directors meeting for your record.

- 1) Certified True Copy of Directors' Resolution passed on June 23, 1976.

PLAINTIFFS'
EXHIBITS

P 23

Letter of 1st
July 1976 with
enclosures from
Credit Invest-
ment to
Plaintiffs
(continued)

- 2) A photostate copy of Power of Attorney from the Company to Madam Tan Lai Wah to act for the Company to sell or dispose or joint ventures of the Company's properties at Tomlinson Road, Singapore for the interest of the Company and the Bank.

Thanking you.

Yours faithfully,
CREDIT INVESTMENT (PTE) LTD.

10

Managing Director

wsc/nhe

C O P Y

HOW LEE REALTY (PTE) LIMITED
(Incorporated in Singapore)

Directors' resolution passed in writing dated 23rd day of June 1976 pursuant to the Article of Association of the Company.

RESOLVED: That the Company do appoint Madam Tan Yen Wah (formerly known as Tan Lai Wah) of No.122-A, Cecil Street, Singapore to be the Attorney of the Company and to act for the Company to sell or dispose of the Company's properties at Tomlinson Road, Singapore known as Lots 107-85, 107-86, 107-87, 107-88 and 107-89 of Town Subdivision XXIV or to enter into joint ventures with person or persons, firm or corporation concerning the said properties and all other purposes contained in the form of Power of Attorney attached hereto and duly endorsed by the Chairman of the Company.

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FURTHER
RESOLVED: That the Common Seal of the Company to be affixed to the Power of Attorney documents and sign by one Director and the Secretary.

CERTIFIED TRUE COPY
Sd:

CHAIRMAN

40

Dated the 23rd day of June 1976

PLAINTIFFS'
EXHIBITS

HOW LEE REALTY PTE.LIMITED

P 23

to

TAN YEN WAH

Letter of 1st
July 1976 with
enclosures from
Credit Invest-
ment to
Plaintiffs

(continued)

POWER OF ATTORNEY

LIM SIN & THIAM BENG
Advocates & Solicitors
SINGAPORE

10 STAMP OFFICE
S=02.00 ¢
SINGAPORE

A POWER OF ATTORNEY

GIVEN on the 23rd day of June, One thousand
nine hundred and seventy six (1976) by HOW LEE
REALTY PTE. LIMITED a company incorporated in
Singapore and having its registered office at
3rd Floor, Maxwell House, Maxwell Road,
Singapore (hereinafter called "the Company")

20 WHEREAS the Company is seised for an estate in
fee simple in possession of the land and
premises described in the Schedule hereto
(hereinafter referred to as "the said Property")
subject, but otherwise free from incumbrances,
to a Mortgage dated the 2nd day of May, 1974
and registered in Volume 1941 No.193.

30 AND WHEREAS the Company is desirous of authoris-
ing TAN YEN WAH formerly known as TAN LAI WAH
of No.122A, Cecil Street, Singapore to act for
the Company to sell or dispose of the said
Property or otherwise enter into joint venture
with any person or persons firm or corporation
concerning the said Property and for all or any
of the purposes hereinafter mentioned

NOW THIS DEED WITNESSETH that the Company
hereby appoints the said TAN YEN WAH formerly
known as TAN LAI WAH (hereinafter called "the
Attorney") to be the true and lawful attorney
of the Company for the Company and in the name

PLAINTIFFS'
EXHIBITS

P 23

Letter of 1st
July 1976
with enclosures
from Credit
Investment to
Plaintiffs

(continued)

of the Company to do perform and execute all
or any of the following acts and things :-

1. To enter into negotiations with any
person or persons firm or corporation for the
sale of the said Property to such person or
persons firm or corporation and at such price
and upon such conditions as the Attorney shall
think fit.

2. To make sale and absolutely dispose of
all and singular the said Property with its
appurtenances for such price in such manner
and subject to such exceptions reservations
covenants and conditions, if any, as the
Attorney shall think fit. 10

3. Upon receipt of the consideration or
purchase money for the said Property or any
part thereof to give a good and valid receipt
therefor which receipt shall exonerate the
person or persons paying such money from
seeing to the application thereof or being
responsible for the loss or misapplication
thereof. 20

4. In connection with such sale of the said
Property to employ any valuer lawyers and other
persons as is necessary or as the Attorney
shall think expedient and to pay them the fees
and payments usually payable for the services.

5. To sign and seal and as my act and deed
deliver any deed or instrument in writing and
to do every other thing whatsoever which may
be necessary or proper for carrying any
agreement for the sale of the said Property
into complete effect and execution in such
manner that all the Company's estate right
title and interest in or to the said Property
with its appurtenances (but subject to any
such exceptions reservations covenants and
conditions as aforesaid) may be effectually and
absolutely conveyed and assured unto the
purchaser or purchasers thereof in fee simple
or unto such other person or persons and for
such estate or estates therein and in such
manner and form as he or they shall direct or
appoint. 30 40

6. The Attorney may do all such acts matters
and things including the commencing and
prosecuting or defending of any proceedings
in connection with any contract for the sale
of the said Property or any part thereof or
the rescission of any such contract or the 50

recovery of any deposit or other money paid thereunder or any matter or thing incidental to the completion of any such contract.

PLAINTIFFS'
EXHIBITS.

P 23

10 7. The Attorney may also enter into agreement with any person or persons firm or corporation for any joint venture relating to the said Property upon such terms and conditions as the Attorney shall in her absolute discretion think fit and in connection therewith to receive any money or profits arising out of any such joint venture and to do all and every other things as may be or as the Attorney shall think proper and necessary.

Letter of 1st
July 1976
with enclosures
from Credit
Investment to
Plaintiffs
(continued)

8. For the purposes aforesaid to do every other act matter or thing which may be or which may by the Attorney be deem to be necessary or proper in relation to the premises.

20 AND the Company hereby declares that all and every the receipts deeds matters and things which shall be by her the Attorney given made executed or done for the aforesaid purposes shall be as good valid and effectual to all intents and purposes whatsoever as if the same had been signed sealed delivered given or made or done by the Company.

AND the Company hereby undertakes at all times to ratify whatsoever the Attorney shall lawfully do or cause to be done in or concerning the premises by virtue of this Power of Attorney.

30 IN WITNESS WHEREOF the Company has hereunto set its Common Seal the day and year first above written.

THE SCHEDULE ABOVE REFERRED TO

40 ALL those five pieces or parcels of land situate in the District of Tanglin in the Republic of Singapore estimated according to Government Resurvey to contain the respective areas of 7,894 square feet, 9,817 square feet, 20,543 square feet, 1,829 square feet and 440 square feet and marked respectively on the Government Resurvey Map as Lots 107-85, 107-86, 107-87, 107-88 and 107-89 of Town Subdivision XXIV which pieces of land form part of the lands comprised in Grant Nos. 1, 13 and 20 or some or one of them.

TOGETHER with the house erected thereon and known as No.10 Tomlinson Road, Singapore.

PLAINTIFFS'
EXHIBITS

P 23

Letter of 1st
July 1976 with
enclosures
from Credit
Investment to
Plaintiffs
(continued)

The Common Seal of HOW LEE)
REALTY PTE. LIMITED was)
hereunto affixed in the)
presence of :-

Sd: E.K.K. Yee DIRECTOR
Sd: Catherine
Kong SECRETARY

I, LIM SIN an Advocate and Solicitor of the
Supreme Court of the Republic of Singapore
practising in Singapore hereby certify that
on the 23rd day of June, A.D. 1976 the Common
Seal of HOW LEE REALTY PTE. LIMITED was duly
affixed to the within written instrument at
Singapore in my presence in accordance with
the regulations of the said Company (which
regulations have been produced and shown to
me).

10

WITNESS my hand this 23rd day of June, 1976

Sd: Lim Sin

P 24

Guarantee of
11th June 1973
from Fourth
Defendant

P 24

GUARANTEE OF 11th June 1973
FROM FOURTH DEFENDANT

20

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH
49 ROBINSON ROAD
SINGAPORE 1.

1. In consideration of The First National
Bank of Chicago (hereinafter called the Bank
which expression shall where the context so
admits include the Bank's successors and
assigns) at our request making or continuing
advances or otherwise giving credit or afford-
ing banking facilities for so long as the Bank
may think fit to
of Eastwood Enterprise Pte.Ltd., 7th Floor,
Summer Centre, 37 Somerset Rd. S'pore. (here-
inafter called the Customer) either alone or
jointly with any other person or persons
I the undersigned Madam Tan Lai Wah of 122-A
Cecil Street, Singapore HEREBY GUARANTEE on
demand in writing being made to me to pay and

30

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satisfy to the Bank all sums of money which are now or shall at any time be owing to the Bank anywhere on any account whatsoever whether from the Customer solely or from the Customer jointly with any other person or persons or from any firm in which the Customer may be a partner including the amount of notes or bills discounted or paid and other loans credits or advances made to or for the accommodation or at the request either of the Customer solely or jointly or of any such firm as aforesaid or for any money for which the Customer may be liable as surety or in any other way whatsoever together with in all the cases aforesaid all interest discount and other banker's charges including legal charges occasioned by or incident to this or any other security held by or offered to the Bank for the same indebtedness or by or to the enforcement of any such security.

PLAINTIFFS'
EXHIBITS

P 24

Guarantee of
11th June 1973
from Fourth
Defendant

(continued)

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2. This guarantee shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or any part of any sum or sums of money owing as aforesaid but shall be a continuing security and shall extend to cover any sum or sums of money which shall for the time being constitute the balance due from the Customer to the Bank upon any such account as hereinbefore mentioned.

30

3. This guarantee shall be binding as a continuing security on me my executors administrators and legal representatives until the expiration of three (3) calendar months after I or in case of my dying or becoming under disability my executors administrators or legal representatives shall have given to the Bank notice in writing to discontinue and determine it.

40

4. In the event of this guarantee ceasing from any cause whatsoever to be binding as a continuing security on me my executors administrators or legal representatives the Bank shall be at liberty without thereby affecting its rights hereunder either to open a fresh account or accounts or to continue any existing account with the Customer and no money paid from time to time into any such account or accounts by or on behalf the Customer shall on settlement of any claim in respect of this guarantee be appropriated towards or have the effect of payment of any part of money due from the Customer at the date when the guarantee is determined.

50

5. A certificate by an officer of the Bank as

PLAINTIFFS'
EXHIBITS

P 24

Guarantee of
11th June 1973
from Fourth
Defendant

(continued)

to the money and liabilities for the time being due and remaining or incurred to the Bank from or by the Customer shall be conclusive evidence in any legal proceedings against me my executors administrators and legal representatives in all courts of law and elsewhere.

6. The Bank shall be at liberty without any further consent from me and without thereby affecting its rights against me hereunder at any time to determine enlarge or vary any credit to the Customer to vary exchange abstain from perfecting or release any other securities held or to be held by the Bank for or on account of the monies intended to be hereby secured or any part thereof to renew bills and promissory notes in any manner and to compound with give time for payment to accept compositions from and make any other arrangements with the Customer or any obligants on bills notes or other securities held or to be held by the Bank for and on behalf of the Customer. 10 20

7. This guarantee shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security now or hereafter held by the Bank for all or any part of the money hereby guaranteed nor shall such collateral or other security or any lien to which the Bank may be otherwise entitled or the liability of any person or persons not parties hereto for all or any part of the monies hereby secured be in anywise prejudiced or affected by this present guarantee And the Bank shall have full power at its discretion to give time for payment to or make any other arrangement with any such other person or persons without prejudice to this present guarantee or any liability hereunder. And all money received by the Bank from me or the Customer or any person or persons liable to pay the same may be applied by the Bank to any account or item of account or to any transaction to which the same may be applicable. 30 40

8. This guarantee shall be applicable to the ultimate balance that may become due to the Bank and until repayment of such balance I will not be entitled as against the Bank to any right of proof in bankruptcy or insolvency of the Customer or other right of a surety discharging his liability in respect of the principal debt unless and until the ultimate balance shall have first been completely discharged and satisfied. 50

And further for the purpose of enabling

the Bank to sue the Customer or prove against his estate for the whole of the money owing as aforesaid or to preserve intact the liability of any other part the Bank may at any time place and keep for such time as it may think prudent any money received recovered or realised hereunder to and at a separate or suspense account to the credit of me or of such other person or persons or transaction if any as it shall think fit without any intermediate obligation on the part of the Bank to apply the same or any part thereof in or towards the discharge of the money owing as aforesaid or any intermediate right to the Customer or prove against his estate in competition with or so as to diminish any dividend or other advantage that would or might come to the Bank or to treat the liability of the Customer as diminished.

PLAINTIFFS'
EXHIBITS

P 24

Guarantee of
11th June 1973
from Fourth
Defendant

(continued)

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9. I have not taken in respect of the liability hereby undertaken by me on behalf of the Customer and I will not take from the Customer either directly or indirectly without the consent of the Bank any promissory note bill of exchange mortgage charge or other counter-security whether merely personal or involving a charge on any property whatsoever of the Customer whereby I or any person claiming through me by indorsement assignment or otherwise would or might on the bankruptcy or insolvency of the Customer and to the prejudice of the Bank increase the proofs in such bankruptcy or insolvency or diminish the property distributable amongst the creditors of the Customer. And as regards any such counter-security as aforesaid which I may have taken or may take with such consent as aforesaid the counter-security shall be a security to the Bank for the fulfilment of my obligations hereunder and shall be forthwith deposited by me with the Bank for that purpose.

10. The Bank shall so long as any money remains due and unpaid hereunder have a lien on all securities belonging to me now or hereafter held by the Bank and on all money now or hereafter standing to my credit with the Bank on any current or other account.

11. For purposes of this guarantee, the singular includes the plural and vice versa.

12. If the name of the Customer hereinbefore inserted is that either of a firm or of a limited company or other corporation or of any committee or association or other unincorporated body any of the provisions hereinbefore contained

PLAINTIFFS'
EXHIBITS

P 24

Guarantee of
11th June 1973
from Fourth
Defendant
(continued)

which are primarily and liberally applicable to the case of a single and individual customer only shall be construed and take effect so as to give the Bank hereunder a guarantee for the money owing from that firm and every member thereof or from that limited company or corporation or committee or association or other unincorporated body as identical or analogous as may be with or to that which would have been given for the money owing from a single individual if the Customer had been a single individual and any money shall be deemed to be so owing notwithstanding any defect informality or insufficiency in the borrowing powers of the Customer or in the exercise thereof which might be a defence as between the Customer and the Bank. In the case of a firm this guarantee shall be deemed to be a continuing guarantee of all money owing on any such account as hereinbefore mentioned from the person or persons carrying on business in the name of or in succession to the firm or from any one or more of such persons although by death retirement or admission of partners or other causes the constitution of the firm may have been in part or wholly varied. In the case of a limited company or other corporation any reference to bankruptcy shall be deemed to be a reference to liquidation or other analogous proceeding and the money owing as aforesaid and hereby guaranteed shall be deemed to include any money owing in respect of debentures or debenture stock of the limited company or other corporation held by or on behalf of the Bank.

13. This guarantee shall be in addition to and not in substitution for any other guarantee for the Customer given by me to the Bank.

14. Any notice or demand hereunder shall be deemed to have been duly given to me or my legal personal representatives by sending the same by post addressed to me or my legal personal representatives at the address hereunder written and shall be effectual notwithstanding any change of residence or death and notwithstanding notice thereof to the Bank and such notice or demand shall be deemed to be received by me or my legal personal representatives twenty-four (24) hours after the posting thereof and shall be sufficient if signed by any officer of the Bank or the Bank's Solicitors and in providing such service it shall be sufficient to prove that the letter containing the demand was properly

addressed and put into the Post Office.

PLAINTIFFS'
EXHIBITS

P 24

Guarantee of
11th June 1973
from Fourth
Defendant

(continued)

10

15. I waive in the Bank's favour all or any of my rights against the Bank or the Customer so far as may be necessary to give effect to any of the provisions of this guarantee and I agree that this guarantee shall be enforceable notwithstanding any change in the name of the Bank and that it shall enure for the benefit of any banking company with which the Bank may become amalgamated and to which the Bank shall assign it.

Dated the 11th day of June 1973

WITNESSES:

Name: Mr. Edward Kong Kee Yee

Address: 11 Watten Heights, Singapore

Signature: E.K.K. Yee

Name: Khor Thiam Beng

Address:

Signature: Khor Thiam Beng

PLAINTIFFS'
EXHIBITS

P 25

Letter of 23rd
July 1976 from
Francis C.H.
Lee & Co. and
related
replies

PLAINTIFFS' EXHIBITS

P 25

LETTER OF 23rd July 1976 FROM
FRANCIS C.H.LEE & CO. AND
RELATED REPLIES

FRANCIS C.H. LEE & CO.
Advocates & Solicitors
Singapore

FRANCIS C.H.LEE
JOSHUA H.W.LIM

10

ESTHER K.M.TAN

SUITE 417, 4th Floor
COLOMBO COURT

P.O.BOX NO.373
SINGAPORE 6

TEL: 328266 (3 Lines)
TELEGRAM: LEXLEE

OUR REF: FL.MC.332.76

DATE: 23.7.76

M/s. Rodyk & Davidson,
Singapore.

ATTN: MR. S.K.TAN

U R G E N T

Dear Sirs,

Re: How Lee Realty (Pte) Ltd
Property at Tomlinson Road

20

We act for the abovenamed Company and for Mdm.
Tan Lai Wah, Mr. Edward Kong and Mdm. Catherine
Kong.

We refer to the conversation between the writer
and your Mr. S.K.Tan on the 23rd instant and to
your letter of 21st July 1976 to Mdm. Tan and
are instructed to convey our clients' apology
for their unintended delay in finalisation of
an arrangement with your clients towards the
settlement of the sum owed by the company. We
understand that in fact your clients are
agreeable to the following scheme, or something
substantially as follows :-

30

1. How Lee will sell the property at \$1.5
million (which is above current market
value) to one Asian Kingship Development
Pte.Ltd. for whom we also act. A contract
dated 2.7.76 has been signed.
2. On completion of the sale, scheduled for
12.8.76, your clients will credit How Lee's

40

overdrawn account with \$1.5 million and debit the same sum to Mdm. Tan's account No. 50-1237 (which was opened by your clients recently for the purpose). This will reduce How Lee's overdraft from \$3.1 million to \$1.6 million.

PLAINTIFFS'
EXHIBITS

P 25

Letter of 23rd
July 1976 from
Francis C.H.
Lee & Co. and
related
replies

- 10 3. Mdm. Tan will as collateral assign all her rights and interests in her share of a property at Shenton Way/Palmer Road as contained in an Agreement dated 30.11.72 a copy of which we enclose herewith and in addition give a promissory note to your clients covering the \$1.6 million, against which your clients will release Mr.Kong, Mdm. Kong and Mdm. Tan from their personal guarantees on the How Lee account.
- 20 4. Your clients will reconvey title to the property to enable the company to complete the sale as aforesaid. In the meantime, we require the same on our usual undertaking to investigate title on behalf of the buyer.
5. Your clients will charge interest at the current overdraft rate on Mdm. Tan's said account on the sum of \$1.5 million but no interest will be charged on the \$1.6 million still owing on the Company's account/promissory note.
- 30 6. The above arrangement is to facilitate Mdm. Tan and the buyer developing the property commercially and upon completion thereof Mdm. Tan will pay the sum then outstanding on her said account and honour the promissory note. Thereupon your clients will extinguish the Company's account and reassign the rights and interests in the Shenton property to Mdm. Tan. The parties shall fix a reasonable time for completion of the development and until completion your clients cannot enforce payment against the company, the Shenton property, Mdm. Tan or any other parties concerned.
- 40

50 We understand that the rationale behind the entire scheme is that your clients can never hope to realise the outstanding sum from an auction of the property or otherwise from the guarantors and are prepared to permit Mdm. Tan and the buyer to take over the property and develop it to generate the means to repay your clients.

PLAINTIFFS'
EXHIBITS

P 25

Letter of 23rd
July 1976 from
Francis C.H.
Lee & Co. and
related
replies

(continued)

We shall be much obliged if you would take
your clients' instructions and revert to us.
Meanwhile, we trust your clients will withhold
all legal proceedings.

Yours faithfully,

Sd:

- c.c. 1. M/s. How Lee Realty (Pte) Ltd.
2. Mr. Edward Kong
3. Mdm. Catherine Kong
4. Mdm. Tan Lai Wah
5. M/s. Asian Kingship Development Pte.Ltd.

10

Enc.

SKT/1887/76/lgl
Your ref: FE.MC.332.76

28th July 1976

Dear Sirs,

How Lee Realty (Pte) Ltd.
Property at Tomlinson Road

With reference to our letter of the 27th
instant we are instructed by our clients to
inform you that the scheme suggested by your
clients is not acceptable at all. The scheme
has no merit and it is clearly an attempt to
delay matters.

20

We are instructed by our clients to give
a Statutory Notice to your clients and we enclose
herewith a copy of the same for your information.
Our clients will exercise its power of sale on
the expiration of the Statutory Notice unless
your clients are prepared in the meanwhile to
redeem the property.

30

Yours faithfully,

M/s. Francis C.H.Lee & Co.
Suite 417, 4th Floor,
Colombo Court,
Singapore 6.

c.c. clients
/wsc/nhe

N O T I C E

P 25

How Lee Realty Pte.Ltd.
3rd Floor, Maxwell House,
20 Maxwell Road,
Singapore 2.

Letter of 23rd
July 1976 from
Francis C.H.
Lee & Co. and
related
replies

(continued)

10

Mr. Edward Kong Kee Yee,
No.11 Watten Heights,
Watten Estate,
Singapore 11.

Mdm. Catherine Kong nee Ho Hoi Yook,
No.11 Watten Heights,
Watten Estate,
Singapore 11.

20

We are instructed by The First National Bank of Chicago of No.49 Robinson Road, Singapore to and do hereby demand payment from you forthwith of the sum of S\$3,137,352.94 being the balance owing to the Bank as at 20th July 1976 secured by an Indenture of Mortgage dated the 2nd day of May 1973 (Registered in Volume 1949 No.193) made between How Lee Realty Pte. Limited of the first part, Edward Kong Kee Yee and Catherine Kong nee Ho Hoi Yook of the second part and The First National Bank of Chicago of the third part and S\$15.00 costs of this Notice and other incidental charges. Further interest at the rate of 3 $\frac{1}{4}$ % per annum over the prime rate from time to time stipulated by the Bank with monthly rests is payable from the 21st July 1976 to date of payment.

30

40

We are further instructed to give you notice that if you shall make default in payment of the said sum of S\$3,137,352.94 for more than one month after service of this Notice to you, the said The First National Bank of Chicago will proceed to enforce all or any of the remedies available under the terms of the said Mortgage or conferred on them by law as they shall think fit.

Dated this 28th day of July 1976

Solicitors for The First
National Bank of Chicago

PLAINTIFFS'
EXHIBITS

SKT/1887/76/jo
Your ref: FL.MC.332.76

P 25

Letter of 23rd
July 1976 from
Francis C.H.
Lee & Co. and
related
replies
(continued)

27th July 1976

Dear Sirs,

How Lee Realty/Credit Investment

We thank you for your letter of the
23rd instant together with enclosures. We
are taking our clients' instructions and
shall revert to you in due course.

Yours faithfully,

10

M/s. Francis C.H.Lee & Co.,
Suite 417, 4th Floor,
Colombo Court,
Singapore 6.

wsc/nhe

P 26

Letter of 5th
October 1976
from Plaintiffs
to Richard
Ellis

P 26

LETTER OF 5th October 1976
FROM PLAINTIFFS TO RICHARD
ELLIS

THE FIRST NATIONAL BANK OF CHICAGO
SINGAPORE BRANCH

20

Mr. Johnny Loh
Richard Ellis, Sallmann,
Seward & Loh (Pte)
20 Ngee Ann Building
(1st Floor) Orchard Road
Singapore 9

C O P Y

October 5, 1976

Dear Mr. Loh:

Re: How Lee Realty and Credit
Investment Properties

30

Please accept this letter as official confirma-
tion the fact that The First National Bank of
Chicago wishes to avail itself of your services
in the public auctioning of 2 separate

residential properties during the first week in November 1976. Specifically, we would ask that you auction the property at No.10 Tomlinson Road (under title to How Lee Realty and mortgaged to FNBC) and the property near the corner of Moon Beam Walk and Holland Road (under title to Credit Investment Pte.Ltd. and mortgaged to FNBC).

PLAINTIFFS'
EXHIBITS

P 26

Letter of 5th
October 1976
from Plaintiffs
to Richard
Ellis

(continued)

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Prior to your taking any action on these properties, we would hope that you would contact our solicitors, Messrs. Rodyk & Davidson, concerning the specifics on the properties involved. Accordingly, please accept this letter also as introduction to both Mr. S.K.Tan and Mr. Foo Yew Heng gentlemen who have had some prior involvement in the Bank's interest in these properties.

Sincerely,

Sd: J. Amick

20

PJA/bp

c.c. Rodyk & Davidson
Attn. Mr. S.K.Tan/
Mr. Foo Yew Heng

FOURTH
DEFENDANT'S
EXHIBITS

D 1

Letter of 8th
April 1974
from Plaintiffs
to Edward Kong

FOURTH DEFENDANT'S EXHIBITS

D 1

LETTER OF 8th April 1974 FROM
PLAINTIFFS TO EDWARD KONG

THE FIRST NATIONAL BANK OF CHICAGO
Singapore Branch

April 8, 1974

Mr. Edward Kong
Credit Investment Pte.Ltd.
7th Fl. QUE Building,
Collyer Quay,
Singapore 1.

10

Dear Edward:

Re: Banking Facilities -
Account of How Lee Realty
Pte.Ltd.

We will be sending you a letter renewing the
overdraft facility for a further year by the
end of this month to coincide with the renewal
date. However, before this, you have our
assurance that we will renew the line as we
have discussed.

20

As regards check No.108, we wish to advise
that this has been sent together with your
monthly statements. Please, therefore,
consider the said check as paid.

With best personal regards.

Sincerely,

wsc/nhe

49 Robinson Road, Singapore 1

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D 2

BUSINESS CARD OF FOURTH
DEFENDANT

WAH LING REALTY (PTE) LTD
PROGRESS REALTY (PTE) LTD

HELEN TAN LAI WAH
(MANAGING DIRECTRESS)

OFFICE:
122-A CECIL STREET
SINGAPORE 1.
TEL: 75223, 911329, 96504

RESIDENCE:
TEL: 376594
33 ONE TREE HILL
SINGAPORE 10.

FOURTH
DEFENDANT'S
EXHIBITS

D 2

Business card
of Fourth
Defendant

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SUPREME COURT
SINGAPORE
EXHIBIT D2
in S.1464/77
Date: 22/4/80

Sd:

EXHIBIT
"A"

Letter of 28th
July 1976 from
Plaintiffs
Solicitors to
How Lee Realty
Pte.Ltd. and
Others

(Exhibit "A"/
to affidavit
of Tan Lai Wah)

EXHIBIT
"A"

LETTER OF 28th July 1976
FROM PLAINTIFFS SOLICITORS
TO HOW LEE REALTY PTE.LTD.
AND OTHERS
(EXHIBIT "A"/ to AFFIDAVIT
OF TAN LAI WAH)

RODYK & DAVIDSON
Advocates and Solicitors, Notaries Public 10
Commissioners of Oaths

CHARTERED BANK CHAMBERS
P.O. BOX 462
SINGAPORE

A.R.REGISTERED

NOTICE

How Lee Realty Pte.Ltd.
3rd Floor, Maxwell House,
20 Maxwell Road,
Singapore 2. 20

Mr. Edward Kong Kee Yee,
No.11 Watten Heights,
Watten Estate,
Singapore 11.

Mdm. Catherine Kong nee Ho Hoi Yook,
No.11 Watten Heights,
Watten Estate,
Singapore 11.

We are instructed by The First National
Bank of Chicago of No.49 Robinson Road, Singapore 30
to and do hereby demand payment from you forth-
with of the sum of S\$3,137,352.94 being the
balance owing to the Bank as at 20th July 1976
secured by an Indenture of Mortgage dated the
2nd day of May 1973 (Registered in Volume 1949
No.193) made between How Lee Realty Pte.Limited
of the first part, Edward Kong Kee Yee and
Catherine Kong nee Ho Hoi Yook of the second
part and The First National Bank of Chicago of
the third part and S\$15 costs of this Notice and 40
other incidental charges. Further interest at
the rate of 3 $\frac{1}{4}$ % per annum over the prime rate
from time to time stipulated by the Bank with
monthly rests is payable from the 21st July
1976 to date of payment.

We are further instructed to give you notice that if you shall make default in payment of the said sum of S\$3,137,352.94 for more than one month after service of this Notice to you, the said The First National Bank of Chicago will proceed to enforce all or any of the remedies available under the terms of the said Mortgage or conferred on them by law as they shall think fit.

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Dated this 28th day of July 1976.

Sd: Rodyk & Davidson

Solicitors for The First National
Bank of Chicago

EXHIBIT
"A"

Letter of 28th
July 1976 from
Plaintiffs
Solicitors to
How Lee Realty
Pte.Ltd. and
Others

(Exhibit "A"/
to affidavit
of Tan LaiWah)

(continued)

O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

B E T W E E N :

TAN LAI WAH

Appellant
(Fourth Defendant)

- and -

THE FIRST NATIONAL BANK
OF CHICAGO

Respondents
(Plaintiffs)

RECORD OF PROCEEDINGS

CAMERON & MARKBY,
Moor House,
London Wall,
London, EC2Y 5HE

Solicitors for the
Appellant

COWARD CHANCE,
Royex House,
Aldermanbury Square,
London, EC2

Solicitors for the
Respondents